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THE SMALL BUSINESS JOBS ACT OF 2010, ONE YEAR LATER

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

OCTOBER 18, 2011

Printed for the Committee on Small Business and Entrepreneurship

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C O N T E N T S

OPENING STATEMENTS

WITNESS

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

THE SMALL BUSINESS JOBS ACT OF 2010, ONE YEAR LATER

TUESDAY, OCTOBER 18, 2011

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in Room 192, Dirksen Senate Office Building, Hon. Mary L. Landrieu, Chair of the Committee, presiding.

Present: Senators Landrieu, Levin, Cantwell, Pryor, Cardin, Shaheen, Hagan, Snowe, Vitter, Rubio, Paul, Ayotte, Brown and Moran.

OPENING STATEMENT OF HON. MARY L. LANDRIEU, CHAIR, AND A U.S. SENATOR FROM LOUISIANA

Chair LANDRIEU. Good morning. Let me thank all of you for joining us this morning for this important hearing and a very special welcome to Secretary Geithner who has potentially the toughest job in Washington, and we thank him for being with us this morning.

A year ago, Senate Democrats and two of our Republican colleagues battled for months to pass the Small Business Jobs Act of 2010. It has been called the most significant piece of legislation to help small business in over a decade by the National Economic Council.

Today we will review the results of portions of the Act and will attempt to ascertain what our next steps should be, keeping in mind the important goal of providing capital to small businesses on Main Streets throughout America, an essential component of job creation and economic recovery.

What is clear today is that SBA lending has exceeded pre-recession levels in the final three quarters of 2011. The Jobs Act loan initiatives led to an all-time high SBA loan approval level for 7(a) and 504 loans supporting over $30 billion in small business lending, making 2011 the most successful year in the history of SBA loan programs as a result of some of the provisions that we included in the Small Business Jobs Act.

As of September 22nd this year, the U.S. Department of Treasury had approved more than $1.2 billion of the 1.5 available for Small Business Credit Initiative programs. Under the State Small Business Credit Initiative, led in large measure by Senator Levin and others, states can leverage Federal funds to support a variety of state programs that help small business access credit. To date, 50 states and territories—we have 55 including the District of Columbia—have been approved, with 4 states pending.

The SSBCI programs include capital access programs, loan guarantee programs, venture capital programs, among others, that help private lenders extend more credit to small businesses.

These businesses are not in the Beltway here in Washington. They are not on Wall Street in New York. They are in rural, suburban and urban areas on Main Streets throughout America that have been starved for capital because of this tough recession.

Many of these programs have just recently received funding from Treasury, so a complete picture will have to wait. We will get some initial data from Secretary Geithner, and I intend to have a hearing early in the second quarter of next year to receive testimony from a variety of state programs.

The Small Business Lending Fund, a new and bold initiative, was a key element of the Small Business Jobs Act. Under a barrage of criticisms and publically declared obstructionism by the Senate Minority Leader, amidst confusing and false charges of TARP II, this lending program was born. It is a wonder it survived at all.

While some of my colleagues today, no doubt, will be quick to point out the gap between initial expectations and actual lending, I would like to read into the record just a few letters received by this Committee from community banks throughout the country that are participating in this lending program.

The first—and I am not going to read the entire letters, but I will submit them for the record—Emclaire Financial Corporation from Emlenton, Pennsylvania, 612 Main Street is their address:

Dear Mrs. Landrieu, our wholly owned subsidiary bank, the Farmers National Bank of Emlenton, headquartered in Venango County, Pennsylvania, serves 8 counties in western Pennsylvania through 13 offices. With nearly $500 million in total assets, we are a rural community bank founded in 1900, serving businesses and individual interests.

Our commercial bank employs 120 professionals and is the bank of choice for more than 40,000 local customers. Four of our banking offices are the only bank in town in markets where they are located.

While we do not view government-sponsored funding as an optimal form of capital for our company and bank, both the SBLF program and TARP Capital Purchase program have provided capital support during a difficult economic period, and both programs have supported recent growth and, in turn, the local economy where we operate. Specifically, since receipt of Treasury SBLF investments in August 2011, less than 2 months ago, we have funded and closed, or will fund and close, more than $700,000 in qualified loans under the program.

Our commercial lending efforts built around traditional, sound asset quality standards, as planned in the coming years, have been organized around the program to ensure optimal utilization of the funding from the programs and the best return for our constituents.

From, literally, the name of the next bank is Heartland, 1398 Central Avenue in Iowa:

Dear Senators Landrieu and Snowe, I am privileged to write you on behalf of Heartland Financial USA, Inc. concerning our participation in the Small Business Loan Fund. We are a $4.0 billion multi-bank holding company headquartered in Iowa, with operations in midwest and western States. Let me begin by expressing appreciation for the opportunity to participate in the program.

Our company traces its roots to the year 1935 when our flagship bank was founded in the depths of the Great Depression. Our purpose then, as now, was to make credit available to businesses in our community and serve as an economic engine for growth.

The SBLP provides added incentive for us to reach out within our community to enhance job creation and economic growth. Fueled by the lower cost of funding, we provide affordable credit to small commercial agricultural clients which will, in turn, increase employment and sustain economic recovery in the communities we serve.

Just two more, the Peoples Bank of Talbotton from Georgia:

The Peoples Bank of Talbotton was founded in 1890. It is a $30 million state chartered bank located in west central Georgia halfway between Columbus and Macon. We are only one of two banks located in Talbot County and the only community bank headquartered in the county or the two adjacent counties.

Funding from SBLP boosted the bank's capital by 30 percent and will allow us to meet our plans to grow 10 percent annually for the foreseeable future.

Thank you so much.

Henry Persons, President.

Finally, Leader Bank out of Arlington, Massachusetts:

Leader Bank is proud to be a participant in the SBL, Small Business Lending Fund.

In September of 2011, Leader Bank Corp. raised approximately $12.9 million from the U.S. Treasury to support additional lending. Using the allocated funds, Leader Bank has loaned over $4 million to qualifying businesses under this program and has supported the creation of approximately 113 new jobs. A variety of businesses have borrowed funds from SBLF, including firms in the biotech industry as well as a frozen yogurt franchise, neighborhood convenience stores and fuel companies.

Just one more letter that I will not read but from a women's business initiative in Wisconsin that is not a bank, but because of my insistence and others the lending corporations called CDFIs were included, and she goes on to say what a tremendous shot in the arm it has been for her and the women-owned businesses that she represents in Wisconsin.

[The information follows:]

Emclaire Financial Corp.
612 Main Street • Emlenton, PA 16373-0046
Phone: (724) 867-2311 / FAX: (724) 867-1007
Website: www.emclairefinancial.com

October 16, 2011

The Honorable Mary L. Landrieu
Chair, Committee on Small Business & Entrepreneurship
United States Senate
428A Russell Senate Building
Washington, DC 20510

SENT VIA EMAIL

SUBJECT: U.S. Department of Treasury Small Business Lending Fund ("SBLF")

Dear Ms. Landrieu:

Our wholly-owned subsidiary bank, The Farmers National Bank of Emlenton, headquartered in Venango County, Pennsylvania, serves eight counties in western Pennsylvania through thirteen offices. With nearly $500 million in total assets, we are a rural community bank founded in 1900 serving business and individual interests. Our commercial bank employs 120 professionals and is the bank of choice for more than 40,000 local customers. Four of our banking offices are the only bank in town in the markets where they are located.

In August 2011, we proudly announced our participation in the U.S. Department of Treasury's SBLF program. Not only did the SBLF program provide us with the occasion to redeem our prior TARP Capital Purchase Program funding, more importantly, this program affords our bank the opportunity to continue to invest in the small businesses that operate in our markets. The SBLF program is a clear win for our bank, our customers and the local economy. By simply executing our longstanding strategy of lending to small businesses and entrepreneurs in our markets, we can use this government sponsored capital to fuel the local economy and create jobs by continuing to invest in the communities we serve.

While we don't view government sponsored funding as an optimal form of capital for our company and bank, both the SBLF program and the TARP Capital Purchase Program have provided capital support during a difficult economic period, and both programs have supported recent growth and in turn the local economy where we operate. Specifically, since receipt of the Treasury's SBLF investment in August 2011 (less than two months ago), we have funded and closed or will shortly fund and close more than $700,000 in qualified loans under the program. Our commercial lending efforts, built around traditional sound asset quality standards, as planned in the coming years have been organized around the program to ensure optimal utilization of the funding from the program and the best return for our constituents.

We sincerely appreciate this opportunity to provide feedback on the SBLF program, a program we believe in. Should you have any questions or wish to discuss our bank or the program further, please don't hesitate to contact me directly via email at wmarsh@farmersnb.com or via telephone at 724-867-2018.

Very truly yours,

/s/ *Bill*

William C. Marsh
Chairman, President and
Chief Executive Officer

Emclaire Financial Corp. / The Farmers National Bank of Emlenton

Heartland
FINANCIAL USA, INC.

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October 14, 2011

Honorable Mary L. Landrieu, Chairman
Honorable Olympia J. Snowe, Ranking Member
Senate Committee on Small Business and Entrepreneurship
United States Senate
Washington, D.C. 20510

Dear Senators Landrieu and Snowe:

I am privileged to write to you on behalf of Heartland Financial USA, Inc. concerning our participation in the Small Business Loan Fund (SBLF). We are a $4.0 billion multibank holding company headquartered in Dubuque, Iowa with operations in eight Midwestern and Western states serving customers through 61 banking locations.

Let me begin by expressing appreciation for the opportunity to participate in the SBLF. We are honored to have been selected for this program and clearly see how the program will benefit our local economies, our business and agricultural borrowers and our subsidiary banks.

Our company traces its roots to the year 1935, when our flagship bank was founded in Dubuque, Iowa in the depths of the Great Depression. Our purpose then, as now, was to make credit available to businesses in our community and serve as an economic engine for growth. We are proud of our accomplishments and eager to continue with support for small commercial and agricultural businesses, our primary market.

We view the Small Business Lending Fund as a new avenue to fulfill our mission to promote economic development in our communities. We are redoubling our efforts to partner with small businesses to stimulate growth and create new jobs through our lending programs. The loan sizes and categories defined for the SBLF are a perfect fit for the Heartland subsidiary banks. This definition captures a high percentage of the business and agricultural loans we already make.

The SBLF provides added incentive for us to reach out within our communities to enhance job creation and economic growth. Fueled by the lower cost of funding, we will provide affordable credit to small commercial and agricultural clients, which will in turn increase employment and sustain the economic recovery in the communities we serve.

Further, we clearly understand that the benefits of SBLF participation will only materialize if and when our business clients and communities succeed as a result of this initiative. We are firmly committed to this outcome.

I also take this opportunity to comment on our company's experience in working with the U. S. Treasury through the application, approval and funding process. While we would have preferred to get started earlier, we found the process to be logically structured, smoothly navigated and the staff at Treasury to be cooperative and professional.

In consideration of the greater good, we would strongly support the expansion of the SBLF to more banking institutions so they might join us in this significant endeavor.

I thank you for your time and this opportunity to express the appreciation of Heartland Financial USA, Inc.

Sincerely,

Lynn B. Fuller
Chairman, President and Chief Executive Officer

THE PEOPLES BANK OF TALBOTTON

POST OFFICE BOX 158 • TALBOTTON, GEORGIA 31827
PHONE 706-665-8551 • FAX 706-665-3596

The Honorable Mary L. Landrieu
Chair, Committee on Small Business & Entrepreneurship
United States Senate
428A Russell
Washington, DC 20510

October 14, 2011

Dear Senator Landrieu,

On September 8, 2011, The Peoples Bank of Talbotton received $890,000 of additional Tier 1 Capital through its sale of preferred stock to the United States Department of the Treasury under the Treasury's Small Business Lending Fund. We are pleased to have qualified for the SBLF program and have completed this transaction. The capital we received will allow us to continue to lend to qualified small businesses and will likely create new jobs in our market area. Our growth in small business lending over the past year exceeds what is required to achieve the lowest available dividend rate of 1% on SBLF funds, which makes this new capital extremely attractive.

The Peoples Bank of Talbotton, founded in 1890, is a $30 million state chartered bank located in west central Georgia half way between Columbus and Macon. We are one of two banks located in Talbot County and the only community bank headquartered in the county or the two adjacent counties. Funding from the SBLF program boosted the Bank's capital by 30% and will allow us to meet our plans to grow 10% annually for the foreseeable future.

For more information on the Bank, please visit our website at www.thepbot.com or contact us at (706) 665-8551.

Sincerely,

Henry Persons
President and Chief Executive Officer

Certain statements in this letter, including statements regarding the anticipated development and expansion of the Bank's business, and the intent, belief or current expectations of the Bank, its directors or its officers, are "forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995). Because such statements are subject to risks and uncertainties, actual results may differ materially form those expressed or implied by such "forward-looking" statements. These risks and uncertainties include, but are not limited to, risks related to the local and national economy, the Bank's performance and regulatory matters.

Leader Bank
A STEP AHEAD

October 14, 2011

Mary L. Landrieu
United States Senator
Senate Small Business and Entrepreneurship Committee

Re: SBLF Funds and Utilization

Dear Honorable Senator Landrieu,

Leader Bank, based out of Arlington, Massachusetts is proud to be a participant in the U.S. Treasury's Small Business Lending Fund (SBLF) Program. In September 2011, Leader Bancorp, Inc. (the holding company for Leader Bank, N.A.) raised approximately $12.9 million from the U.S. Treasury to support additional lending to small businesses.

Using the allocated funds, Leader Bank has loaned over four million dollars to qualifying businesses under the SBLF program and has supported the creation of approximately 113 new jobs within our local communities thus far. A variety of businesses have borrowed funds from the SBLF program, including firms in the bio-technology industry as well frozen yogurt franchises, neighborhood convenience stores and fuel companies.

In addition, Leader Bank has over a dozen SBLF loans that are currently in process and we anticipate that at a minimum, another 82 jobs will be created by the end of the year as a result of the financing.

Leader Bank's participation in the SBLF has provided us with yet another means to help spur the local economy and support the small businesses that create employment opportunities. As a small community organization, we have seen the benefits and value of the program first hand.

Please feel free to contact me should you have any questions or require any additional information. I can be reached via email at stuli@leaderbank.com or by telephone at (781) 646-3900.

Thank you.

Best Regards,

Sushil K. Tuli
President & CEO

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October 14, 2011

Senator Mary Landrieu, Chair
Committee on Small Business and Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, DC 20510

Dear Senator Landrieu:

We hope you will share with U.S. Secretary of the Treasury, Timothy Geithner, how extremely timely is the new Small Business Lending Fund (SBLF). The Wisconsin Women's Business Initiative Corporation (WWBIC) of which I am President and Chief Visionary Officer, received an award from the new SBLF in the first round of funding. We are immediately putting these funds to work as fair and accessible capital for small and micro businesses.

We applaud the insight and vision that led Treasury to establish this fund. We truly believe that the Department of the Treasury has its finger on the pulse of small and micro business lending through its Community Development Financial Institutions (CDFI) Fund. WWBIC is one of Wisconsin's first certified CDFIs, and has been funded continuously since 1998.

The SBLF program fits perfectly with WWBIC's mission as a community development lender. WWBC is a statewide economic development organization focused on business creation, expansion, and sustainability, and job creation and retention in both urban and rural areas. We provide access to capital including direct lending, one-on-one business assistance, business education, and financial awareness education programming. Our services are open to anyone in Wisconsin, but our mission emphasis is women, people of color, and people of lower wealth and incomes – those most likely to be underserved by traditional financial institutions.

With the transformation of the credit landscape post-recession, demand for our services continues to be huge and growing. While entrepreneurship is not for everyone, it can still be a solution for many, especially those facing unexpected or long-term unemployment. Many studies have shown the singular role of small business and microenterprise in job creation. A recent *Association of Enterprise Opportunity* report notes that:

"If one in three microenterprises in the United States hired an additional employee, the U.S. would be at full employment."

With "JOBS, JOBS, JOBS" as the rallying cry of the year, our work is more important than ever. Thank you for your consideration.

With my best,

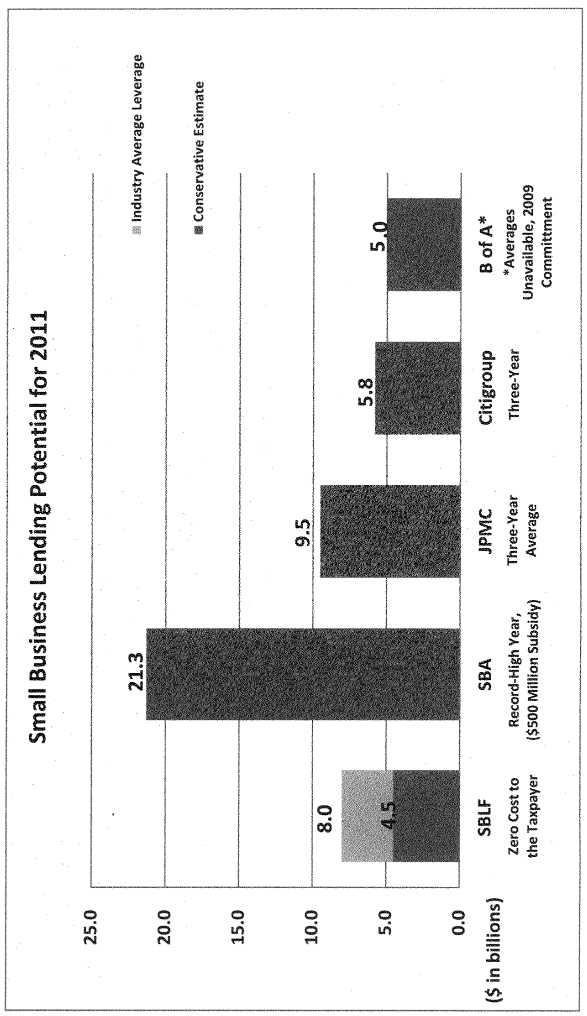
Wendy K. Baumann

Wendy K. Baumann
President/CVO

Chair LANDRIEU. Today, we will hear with very tight time constraints by Congress that Treasury was able to distribute $4.2 billion of the $30 billion available. It is important to note, however, Treasury estimates that $4 billion invested in community banks will lead to small business lending ranging from $9 billion to $16 billion over the next two years.

To put this into context, I call your attention to the chart that shows just how the large banks average their own lending, and you can see from J.P. Morgan, Citigroup and Bank of America—J.P. Morgan, $9.5 billion last year, Citigroup, $5.8 billion and $5 billion from Bank of America. SBLF over two years, even at the lower rates of lending because it took so much time to get this program up and running and there was so much opposition to it initially, has done not too badly in comparison.

[The information follows.]



Today, we will hear that 137 of 332 SBLF borrowers were also TARP recipients and used some of the money they received to repay these loans. There is nothing here that is controversial. There is a reason we included TARP recipients in this program. The independent community bankers of America requested that we do so. They requested this provision in their testimony in front of the House Financial Services Committee on May 18th, 2010.

The bottom line is this: All Small Business Lending Fund banks, whether they receive TARP or not, must increase loans to small business to keep their rates low. In fact, if they do not keep their small business lending, they will be paying Treasury back at higher interest rates. So despite TARP repayment provisions, we will see more lending to small business.

Today, we will hear the process took too long to get loans out of the door, and I agree; but I will remind everyone this was an entirely unique program. The Treasury did not have a readily available road map sitting on the shelf to take down and steer. It took time to develop.

Despite the difficulties, the program was launched. As Federal Reserve Chairman Bernanke once said, community banks are creative, committed, stubborn and resilient, precisely the type of people who we need to help our economy grow.

I am pleased that during this recession America's legislators came together to pass an innovative idea to help turn the tide when it came to access to capital for America's small business, and I am pleased to report through this single fund we could potentially increase the amount of small business lending by many billions of dollars. While we did not release as much as we had hoped, we had a degree of success nonetheless.

I intend to take the testimony given today, as well as input from banks and small businesses, to begin to develop a Small Business Lending Fund II. Until this recession is at a distance in the rearview mirror, I believe that this Committee has an obligation to turn out time-tested, as well as new and innovative, programs to get capital into the hands of the only people that can bring this recession to an end, and that is small businesses throughout our country.

Today, I welcome Secretary Geithner. I look forward to hearing about these programs that we created through this extraordinary act, and I thank you for your time.

I would like now to turn it over to Ranking Member Snowe, and then we will take questions, or hear the testimony and then take questions from our members.

Thank you.

OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, RANKING MEMBER, AND A U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you, Chair Landrieu, for calling this critical hearing to examine the Small Business Jobs Act and its implementation one year later, at a time of economic crisis of epic proportion, indisputably.

Mr. Secretary, we welcome you here today.

It is important to explore the issues of job creation and the lack of economic growth, the lack of job creation overall and what has gone wrong, frankly. I know your primary mission is to craft the economic policy of this country, and at this point it simply is not working. There is no doubt that nothing is more urgent than creating jobs for the American people because our nation has been plagued by a staggering unemployment rate for nearly three years.

According to the Bureau of Labor Statistics the average annual unemployment rate for 2010 was 9.6 percent, which translates into 14.8 million Americans unemployed. For 27 of the last 32 months the unemployment rate has been at 9 percent or higher. About 45 percent of the unemployed have been out of work for at least 6 months, a level previously unseen since World War II.

What is especially frustrating, and I think ever more so for those Americans who are unemployed or underemployed, this is not a new issue. As I said, it has been out there for three years. It is something that we have known.

This catastrophe did not happen overnight. In fact, I know when you appeared before the Senate Finance Committee back in early February I was describing to you the scenario and what I was hearing on Main Street in my state as well as in my capacity here as Ranking Member of the Small Business Committee and as a member of the Finance Committee, and you said that my view of the economy was dark and pessimistic.

What I was relating to you, Mr. Secretary, is what I had been hearing because I think listening is a key ingredient of leadership and understanding what exactly is imperiling the ability of small businesses to create jobs, the people that we depend on to create those jobs for hardworking and deserving Americans, because America has always provided the promise of the dignity of a job, so people can support their families. Millions of Americans right now are missing out on that opportunity, and that is what we have to restore.

Seven months later, since early February, look at the time that has passed. In February, the unemployment rate was about 9 percent. Today, it is 9.1 percent while the number of long-termed unemployed actually rose 6.2 million from 6 million in August—the first time since World War II that no new net jobs were created in a single month, in August.

According to the Bureau of Labor Statistics, total civilian employment was 142.2 million when the President took office in January 2009 and 140 million in September of this year. So it is a decline of 2.2 million jobs.

I think that is what it is all about, Mr. Secretary, looking at these dark numbers and asking who represents those numbers.

As you well know, in order to restore any stability into our economy, we need 100,000 new jobs every month just to remain static, but to go back to the pre-recession levels of 2007 with 6 percent unemployment, it would require more than 280,000 new jobs every month for 5 consecutive years.

A former colleague of ours, Senator Phil Gramm from Texas, noted in a recent column in the Wall Street Journal, had the U.S. economy recovered from the current recession the way it bounced back from the other 10 recessions since World War II, our per capita GDP would be $3,553 higher than it is today and 11.9 million more Americans would be employed. Instead, we have 14 million

Americans still unemployed and have been so for the longest period since we started keeping records in 1948.

We are facing the worst post-recession recovery in the history of our country. It requires a sense of urgency in addressing those issues.

If we matched the recovery during the Reagan years, we would have had approximately 16 million jobs created, according to Senator Gramm.

When one remedy after another fails to solve the crisis that has mushroomed into what is now a state of emergency, it is long past time for the alarm bells to sound. When you miss the target in a systemic and serial fashion, one has to dig deeper to unearth the underlying causes.

In my view, the culprit has been a failure to focus on the main engine of economic growth, and that is, of course, the private sector and the small businesses upon whom we depend to create those jobs.

Now if you listen to those businesses as I do on my Main Street tours and at roundtables, and the numerous business people that I meet here and everywhere, they will tell you loud and clear that the two main issues are tax reform and fewer regulations.

That is what is driving the problems that we are facing in America now, Mr. Secretary. It cannot be temporary solutions, and there is no reflection of that urgency or the need or the impetus to move in a direction to reform our tax code and overhaul our regulatory system.

I know you said recently, in early October, that the idea that regulations are affecting our economy is without foundation. But when you talk to business after business, they cite the regulatory impact. Businesses have to comply with 3,000 Federal regulations every year. We have had 50,000 regulations since 1996. We have had more than 407 regulations coming out of the Administration this year to cost an additional $68 billion to $1.7 trillion in compliance.

We depend on these businesses because they have driven past economic recoveries. Now they are asking the government to make the environment conducive enough to expand the private sector, not to simply grow our government. Therein lies the problem because the jobs that have been created have been created in the government sector, not in the private sector.

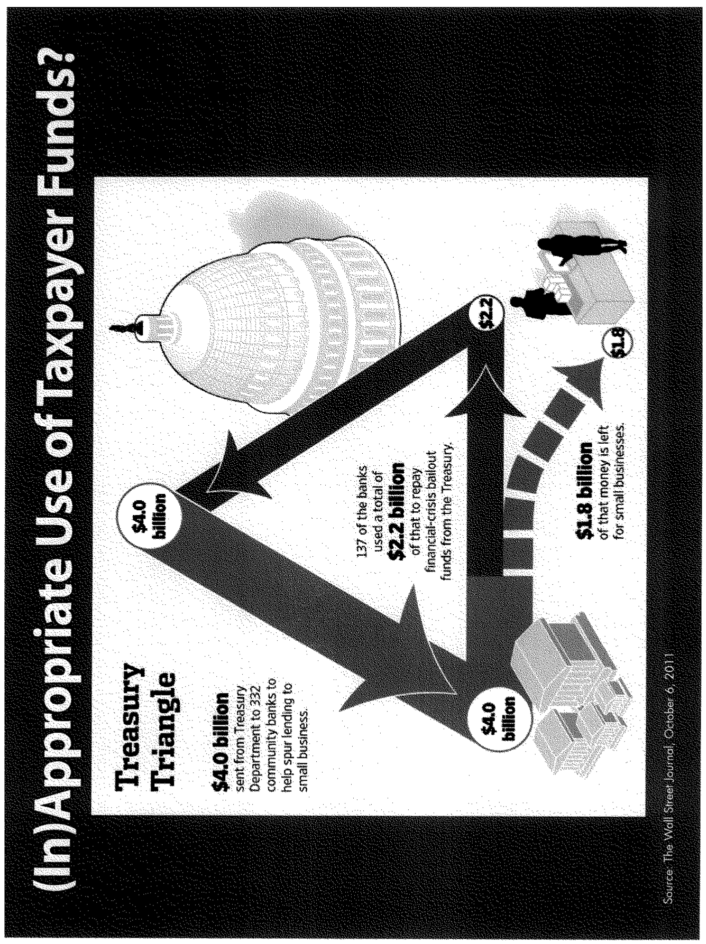
The Lending Fund in the Jobs Act is a case in point. The time the Jobs Act was discussed on the Senate floor more than a year ago—in fact, we started it a year ago July—I warned at that time that the Lending Fund, the massive Lending Fund of $30 billion, was a new and expansive Federal program that closely resembled TARP. I reminded everyone the Special Inspector General for TARP, Mr. Barofsky, stated that in terms of its design, participants and the application process it would essentially be an extension of TARP.

I know proponents of the legislation did not share that view. They did not heed the warnings and certainly not of the Special Inspector General. They claimed repeatedly that the program would be immensely popular with the 7,000 community lenders across our nation, requiring a full $30 billion.

In reality, we wasted an entire 9 months on this program, 9 months before a single dollar was distributed, only to have $4 billion utilized by a mere 332 banks, 137 of which are using $2.2 billion to refinance their outstanding TARP obligations with only $1.8 billion remaining for actual small business lending.

The Wall Street Journal pointed out, and it shows, and it is depicted in this chart, the program's failures, on October 6th, to explain the problems.

[The information follows:]



So where is the disconnect?

I mean $30 billion a year ago, and I know how urgent it was, and everybody said we had to have the $30 billion. Clearly, the problems were anticipated. They were foreseen. And here we are today—$1.8 billion out of the entire $30 billion went for small business lending.

Prior to even receiving the lending funds, a full 51 percent of recipients had already increased small business lending to initially qualify for a low interest rate of 2 percent or less because the baseline for increased lending was purposely set so well in the legislation. The program's incentive structure program is seriously flawed.

So not surprisingly, the banks saw a great deal, and they refinanced. This can be expected when a program encourages paying off one taxpayer-funded credit card, which was TARP, with another, the Lending Fund, to obtain lower interest rates and fewer restrictions.

But is that a wise, appropriate use of taxpayers' dollars? It certainly was not effective in addressing the unemployment crisis we are facing in America.

We should contrast that experience with the other initiatives that were extended in the Jobs Bill last September, which I authored or supported, and that were authored by others—increasing SBA loan limits, reducing SBA fees temporarily, increasing SBA loan guarantees—which resulted in SBA lending reaching an all-time high of $30 billion in 2011.

The bottom line is I am deeply concerned that this Administration failed to create the kind of conditions that are warranted in these urgent times, Mr. Secretary. Something has gone terribly wrong. What I hear over and over again is that there is no tempo, a tempo of urgency, that there is an emergency out there.

If you are proposing more tax incentives that are only for a year, that is the problem. We have got temporary solutions. One-year, temporary solutions are not going to be sufficient to extricate ourselves from the worst post-recession recovery in the history of this country. That is why we need fundamental and structural reform, both on taxes and on regulations, so that they have stability beyond one-year tax extenders.

We have 150 tax extenders expiring at the end of this year. We have 11 out of the 12 in the Jobs Bill that are going to expire at the end of the year. They are all expiring. That is the point, and small businesses recognize that.

Beyond one year, there is nothing. That is why we need fundamental reform right now, and it requires the presidential leadership to join the congressional leadership to get it done now.

Chair LANDRIEU. Secretary Geithner.

STATEMENT OF THE HONORABLE TIMOTHY F. GEITHNER, SECRETARY, U.S. DEPARTMENT OF TREASURY

Secretary GEITHNER. Thank you, Madam Chair and Ranking Member Snowe. Thanks for giving me a chance to come talk to you about the challenges facing small businesses and how we can best address them.

The biggest challenge facing small business today is that demand for the goods and services they produce is not growing fast enough, and the most important thing we can do for small businesses is to strengthen the overall rate of economic growth.

We have proposed, as you know, to the Congress a very strong set of tax incentives and investments to increase economic growth and help put more Americans back to work. These proposals, according to independent estimates, not ours, would increase economic growth by between 1 and 2 percent and add more than 1.5 million jobs.

If Congress does not act on these measures, then taxes will go up for virtually all working Americans, taxes will rise for most businesses, businesses large and small, unemployment rates will rise, not fall, there will be fewer jobs for veterans and the long-term unemployed, the housing market will be weaker, our damaged infrastructure will leave America's businesses with growing costs, and cities and States will have to cut back further on critical services, laying off more teachers and first responders.

Now enacting the proposals in the American Jobs Act will not, of course, solve all the problems we face as a nation. We need, as Senator Snowe said, comprehensive tax reform that lowers rates, reduces tax preferences and loopholes, and improves incentives for investing in the United States. We need a sustained and very substantial program of investments to rebuild America's infrastructure. We need our education system to produce better results. We need to expand exports, building on the trade agreements Congress passed last week. And, we need to get our deficits back down to earth as the economy recovers to make sure we are living within our means.

But as we work on those long-term challenges, we need to get the economy growing more rapidly. And to do that, we need Congress to act, and that means Democrats and Republicans working together.

We cannot pass tax cuts for working Americans and for businesses; we cannot rebuild America's infrastructure; we cannot get critical help to save local governments, without the support of Republicans alongside Democrats.

And I provide in my written testimony an update on the full range of tax incentives and credit programs we put in place over the past two and a half years to help small businesses. Because of these programs, the tax burden on small businesses in America today is lower than when the President took office. Among the range of specific tax cuts enacted over the past two and a half years, we made it possible for businesses to fully write off investments in capital equipment. We have cut to zero capital gains rates on investments in small businesses.

Because of these small business credit programs, the cost of credit is lower and credit terms have eased for businesses. Small banks that are in solid shape but have been unable to raise capital from the private markets have been able to take investments from the Treasury so they can increase lending to small businesses. We provided $15.5 billion in capital in total, including roughly $4 billion under the SBLF, to a total 713 community banks across the country

Now we are a $14 trillion economy. We are a very large economy. These numbers may not seem small, but that is roughly 10 percent of community banks, which is a very substantial number of banks, assisted through these programs.

Of course, they are not designed to help banks. They are designed to help banks get the capital they need to extend credit.

Community Development Financial Institutions, CDFIs have been able to get support from the Treasury to expand lending in communities, urban and rural, across the country, some of the communities most hardest hit by the recession.

Republican and Democratic governors across the country have been able to access support from Treasury to put more resources in a range of innovative small business credit programs.

Businesses have been able to access loans through the SBA's guarantee programs, in larger amounts and for lower cost, and these programs have been among the most cost effective programs we have available to us to help economic growth. They work alongside the private sector, mobilizing substantial amounts of private capital alongside modest investments of taxpayer resources.

The CBO now estimates that the investments we made in banks under the original TARP programs will produce billions of dollars of gains for the American taxpayer. Those investments provided the oxygen that is essential for economic growth. They were a critical reason why the economy started growing again in the Spring of 2009 after the worst recession, the deepest recession since the Great Depression.

Now these small business programs were not large enough to insulate small businesses from the full damage caused by the crisis, but they made a major difference and they are a very good model of how to combine tax incentives with innovative credit programs to ease some of the burden on businesses.

Now I appreciate the support many of you have provided to these programs, and I hope we continue to work together on new steps to help small business access the credit and the capital they need to meet the needs of their business customers.

Thank you. I would be happy to respond to your questions, and I am grateful for the chance to do so.

[The prepared statement of Secretary Geithner follows:]

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The Honorable Timothy F. Geithner
U.S. Department of the Treasury
Hearing entitled "The Small Business Jobs Act of 2010, One Year Later"
Senate Small Business and Entrepreneurship Committee
October 18, 2011

Chair Landrieu, Ranking Member Snowe, thank you for the opportunity to talk with you today about the Administration's efforts to support small business.

Creating stronger economic growth and helping more Americans get back to work is today's biggest challenge. We have succeeded in preventing the collapse of the financial system, restarting economic growth, and creating 2.6 million private sector jobs; however, economic growth remains slow and significant economic challenges remain.

America's small businesses still face a very tough economy. They are experiencing more challenges than larger businesses in the wake of the recession. Small businesses are more concentrated in construction and retail, industries that were at the epicenter of the crisis and have not returned to pre-recession levels, and they export much less than larger businesses.

Small businesses have also been hurt by tightening credit. Unlike larger firms, small businesses rely on bank loans, personal savings, credit card debt, and mortgage finance. The fall in asset and real property values during the recession reduced the amount of resources that small business owners can draw on to invest in starting and growing their businesses.

Since January 2009, we have worked with Congress to take a multi-pronged approach to helping small businesses address these challenges. My testimony today includes an appendix with a comprehensive overview of these measures.

The main elements of our strategy are the following:

- ***Providing Tax Relief for Small Businesses.*** The Administration has supported 17 direct tax breaks that are designed to support small businesses' ability to invest, innovate, and expand. For example, the Small Business Jobs Act allowed small businesses to immediately write off $500,000 in capital investments. Additionally, the bipartisan December tax compromise included 100 percent expensing through 2011, expanding on previous bonus depreciation measures and allowing businesses to immediately deduct the full cost of qualified capital investments. The President has also signed tax relief into law that helps small businesses and the self-employed afford health care for their employees and themselves; increased the deduction for start-up expenses to help innovators turn an idea into a thriving business; and allowed greater flexibility and streamlining of small businesses' ability to claim certain tax incentives.
- ***Helping Small Businesses Access Capital.*** From emergency programs implemented during the financial crisis to new public-private partnerships that leverage federal resources with private investment and community expertise, we are committed to helping

small businesses navigate difficult credit conditions and access the capital they need to grow, invest, and hire. During the financial crisis, almost $14 billion was invested in small banks through TARP, while modifications to SBA's programs in 2009 and 2010 supported $42 billion in additional lending. In 2009 and 2010, CDFI Fund program awards resulted in almost $4 billion of public/private investments in our nation's most distressed communities. We expect the Small Business Lending Fund (SBLF) to leverage approximately $9 billion in additional lending by the end of 2014, and the State Small Business Credit Initiative (SSBCI) to leverage at least $15 billion by the end of 2016.

These two programs have created important new channels to expand access to credit. Tom Swenson, the Chief Executive Officer and President of the Bank of Montana, which received SBLF funds, said, "The SBLF capital comes at a perfect time for Bank of Montana to green-light important loans to several small- and mid-sized businesses in our community." Additionally, 50 states and territories have already been approved for more than $1.3 billion in SSBCI funds to help support their local small business lending programs. As Governor Jay Nixon said when Missouri's SSBCI funding was approved, "These new resources will help Missouri entrepreneurs grow their operations and turn their dreams into bricks and mortar." Missouri's state-run venture capital fund, for example, has already completed its first round of funding with SSBCI support, investing a total of approximately $7 million to 18 small businesses.

- ***Encouraging High-Growth Small Businesses.*** We are working to address regulatory and administrative requirements that can have a disproportionate impact on start-up companies and small businesses, while the President's Council on Jobs and Competitiveness and Startup America continue to support entrepreneurs' efforts in an evolving economy. These efforts are aligned with the President's call for a government-wide review to update the regulatory system so it protects the public welfare and most efficiently promotes economic growth, innovation, competitiveness, and job creation. In August, 26 agencies released their final regulatory review plans that include over 500 initiatives to reduce costs, simplify the regulatory system, and eliminate redundancies or inconsistencies. Initiatives finalized or publicly proposed by the Department of Labor, the Environmental Protection Agency, the Department of Transportation, and the Department of Health and Human Services are expected to save more than $6 billion over the next five years. We expect that the savings from the numerous initiatives government-wide will exceed $10 billion.

- ***Expanding Export Opportunities for Small Businesses.*** Small businesses face unique challenges exporting their goods and services, ranging from difficulties navigating foreign markets to fewer resources to address trade barriers and access to credit. We are implementing a number of programs to help small businesses take advantage of export opportunities, as well as making progress through the President's National Export Initiative, which places a priority on helping small businesses access key export markets that might otherwise be difficult to reach. The new bilateral free trade agreements with South Korea, Panama, and Colombia, approved by Congress last week, will help expand export markets for businesses both small and large.

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- ***Increasing Federal Contracting with Small Businesses.*** In the 2010 fiscal year, the Federal government's contracts with small businesses totaled nearly $100 billion. We have made substantial strides towards reaching our small business contracting goals, including those for small businesses owned by minorities and women, or located in economically disadvantaged areas. At Treasury alone, 30 percent of our nearly $2.2 billion procurement budget went to small businesses in the 2010 fiscal year. These contracts have a powerful impact at the community level. For example, Genesis Business Systems, a minority-owned small business in San Antonio, Texas, was awarded $4.3 million in new contracts this year from the Treasury for information technology development and modernization work. As a result, Genesis Business Systems was able to hire 10 new employees and expand its business into new technology areas.

The most important thing we can do today to help small businesses thrive and hire is pursue policies that result in a sustained period of stronger economic growth. Since September 2008, monthly surveys have found consistently that small business owners see lack of demand and poor sales as their single biggest challenge in this difficult economic environment.

Private independent estimates suggest that the American Jobs Act will add up to 1.9 million new jobs, many of which will be created by small businesses that serve their communities across the country.

That's why the American Jobs Act includes specific provisions targeted towards small businesses that provide direct support for firms to hire, invest, and expand. The American Jobs Act will:

- ***Expand and Extend the Payroll Tax Cut.*** The American Jobs Act will halve businesses' payroll taxes on the first $5 million in payroll, reducing their payroll tax rate from 6.2 percent to 3.1 percent. These tax cuts would be available to all businesses, but are designed to target smaller firms. Tax relief would be focused on the 98 percent of businesses with less than $5 million in payroll.

- ***Encourage Firms to Hire and Increase Wages for Existing Workers.*** The American Jobs Act will completely offset employer payroll taxes on newly hired workers or on pay increases for current workers, compared to the previous year. This will encourage businesses to both grow their workforces and raise wages for existing employees. This tax relief will be capped at $50 million in new wages to target the benefit towards small and mid-size firms. In addition, the American Jobs Act includes generous, targeted tax incentives for firms of all sizes to hire individuals who have experienced long periods of unemployment and veterans returning from the conflicts in Iraq and Afghanistan.

- ***Reward Firms for Making New Investments.*** The American Jobs Act will extend 100 percent business expensing through 2012, allowing companies to deduct the full value of new investments from their tax obligations.

- ***Support Entrepreneurship.*** The American Jobs Act supports Americans trying to start their own businesses by allowing states to use federal unemployment insurance funds to support self-employment assistance programs for long-term unemployed workers who want to start their own business. Participants in these programs are 19 times more likely to be self-employed at some point after being unemployed, and four times more likely to obtain employment of any kind, than eligible non-participants.

- ***Help Small Businesses Access Capital to Grow.*** The President has also called for policy changes that will make it easier for entrepreneurs and small companies to raise capital and go public in ways that are consistent with investor protections. First, we support raising the cap on the exemption from SEC registration for small public offerings from $5 million to $50 million through changes to the SEC's Regulation A. Second, we propose establishing a "crowdfunding" exemption from SEC registration requirements for firms raising less than $1 million (with individual investments limited to $10,000 or 10 percent of investors' annual income). Third, we will work with the SEC to explore ways to address the costs that small, newly public firms face in complying with Sarbanes-Oxley disclosure and auditing requirements. These changes would improve small businesses' ability to grow and create jobs.

All the measures listed above aim to provide direct support to small businesses. But many of the American Jobs Act's other provisions – such as those that will help modernize our schools, repair our infrastructure, and deploy wireless high-speed internet – have multiple benefits, one of which is generating new business for small firms or helping them grow and compete in communities nationwide. And although these investments will help get our economy firmly on the right track today, they will also make lasting improvements in communities across the country to support our economic strength for decades to come.

The Administration is also pursuing a number of common-sense steps that do not require legislation to help small businesses. These measures include:

- ***Accelerating Government Payments to Small Contractors.*** Last month, the Administration launched QuickPay, which calls on federal agencies to pay contractors for the products and services they provide within 15 days, rather than 30 days, after receipt of an invoice. This change will put billions of dollars into the hands of small businesses more quickly, eliminate their need to make interest payments necessary to finance their operations, and help put and keep small businesses on stronger financial footing.

- ***Improving Small Businesses' Access to Government Programs and Services.*** President Obama will ask his Chief Information Officer and Chief Technology Officer to stand up BusinessUSA, an online platform through which businesses can access the full range of government programs and services necessary for them to compete globally.

- ***Helping Small Businesses Compete for Infrastructure Projects.*** To help small firms compete and win bids on infrastructure projects, we support temporarily increasing the limit on surety bonds guaranteed by the Small Business Administration (SBA) from $2 million to $5 million.

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Last month, the President summarized our approach to healing our economy during his address to a joint session of Congress. He said:

> What's guided us from the start of this crisis hasn't been the search for a silver bullet. It's been a commitment to stay at it – to be persistent – to keep trying every new idea that works, and listen to every good proposal, no matter which party comes up with it.

The ideas in the American Jobs Act demonstrate that commitment. The approaches we've taken to support small businesses demonstrate that commitment. We will continue to stand by it. And we've seen results from it – 2.6 million private-sector jobs created since March 2010. We hope Congress will take the opportunity to pass the provisions in the American Jobs Act, which independent economists estimate will create up to 1.9 million new jobs and increase GDP by up to two percent.

I join the President in urging this Congress to work together and take action – to support the specific provisions in the American Jobs Act, which both Democrats and Republicans have embraced in the past. The government needs to act to strengthen overall growth to improve the conditions for our small businesses, so that they have the confidence and the resources to put Americans across the country back to work.

Thank you.

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THE OBAMA ADMINISTRATION'S SMALL BUSINESS AGENDA
Programs and Policies to Date

Providing Tax Relief for Small Businesses

The Administration is strongly committed to supporting small businesses through targeted tax incentives that provide increased capital and key incentives for small business investment and growth. In addition to the tax relief proposed in the American Jobs Act, since taking office, the President has signed 17 tax cuts into law that benefit small businesses.

Tax Credits to Help Small Businesses Hire. The Hiring Incentives to Restore Employment Act (HIRE Act) provided billions of dollars in tax relief for businesses – both small and large – by providing an offset of the employer share of payroll taxes for hiring unemployed workers, and an additional tax credit of up to $1,000 if a worker is retained for more than one year.

Expansion of Limits on Small Business Expensing to Encourage Investment. The Administration has worked with Congress to make it easier for small businesses to immediately deduct the cost of machinery, equipment, and other qualifying property. The Recovery Act increased the amount that a small business could expense from $133,000 to $250,000 for the 2009 tax year. The HIRE Act extended the $250,000 level for the 2010 tax year. The Small Business Jobs Act increased this amount further, from $250,000 to $500,000, for 2010 and 2011.

Bonus Depreciation Tax Incentives to Support New Investment. The Administration has also supported more general bonus depreciation measures that allow all businesses, both small and large, to immediately write off more of their investments. The Recovery Act authorized 50 percent bonus depreciation for 2009, and the Jobs Act extended that level through 2010. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 raised the amount to 100 percent, effective immediately for qualified investment, for the last quarter of 2010 and through 2011. The American Jobs Act would extend 100 percent expensing to 2012.

Tax Incentives for Investing in Small Businesses. The Administration has supported tax incentives to help increase the attractiveness of investments in small businesses, thus helping these businesses access additional capital. The Recovery Act increased the fraction of gain that could be excluded on sales of qualified small business stock from 50 percent to 75 percent, and the Small Business Jobs Act completely eliminated the tax on gain from qualified small business stock issued from its enactment through the end of 2010. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act extended this 100 percent exclusion for qualified small business stock issued through 2011. The President has proposed making this provision permanent.

Tax Cuts to Help Small Businesses Keep More Cash on Hand. The Recovery Act authorized small businesses to elect to carryback their 2008 tax losses five years instead of the usual two, which allowed small businesses to immediately use these losses to generate cash refunds instead of waiting to use them to offset taxes due on future profits. Another Recovery Act provision gave relief to small businesses on estimated tax payments, allowing small businesses to keep needed cash on hand to invest and hire. The Recovery Act also reduced the built-in gains holding period for subchapter S corporations, allowing some S corporations to dispose of assets and access needed cash without triggering payment of corporate income tax. The Small Business Jobs Act allowed small businesses to carryback their 2010 general business credits five years, which let small businesses convert tax credits which could not be used in the current year into cash. The Small Business Jobs Act also provided a deduction in 2010 for health insurance costs in computing self-employment income, to match the existing income tax deduction for such costs – reducing tax payments for small business owners and helping them conserve cash.

Tax Credits to Help Small Businesses Provide Health Care to Employees. In total, the Patient Protection and Affordable Care Act (Affordable Care Act) invests an estimated $40 billion over the next decade in tax credits that enable small businesses to invest, compete, and hire. The Affordable Care Act offers a tax credit that covers up to 35 percent of employer contributions to healthcare premiums to help small businesses extend coverage to their employees. By 2014, this tax credit will cover up to 50 percent of employer contributions to healthcare premiums for these employees of small firms. Not only is health care coverage critical for workers and their families, but, by extending coverage, small businesses will also gain an edge on their competitors – by helping recruit top talent, retain successful employees, and increasing the overall productivity of their businesses.

Adjustments and Simplifications of Tax Rules. The Small Business Jobs Act permanently limited a penalty rule for investments in reportable transactions that have the potential for tax avoidance or evasion that was perceived to be disproportionately affecting small businesses who may have failed to disclose such investments. The Small Business Jobs Act also permanently simplified the manner in which businesses may claim deductions for cell phones, making it easier for small business owners to claim deductions for legitimate business expenses without burdensome documentation.

Start-Up Cost Deductions to Support Small Business Entrepreneurs. The Small Business Jobs Act temporarily increased the amount of start-up costs that new firms could immediately write off from $5,000 to $10,000, providing an incentive for entrepreneurs to turn an idea into a new business.

Budget Proposals that Provide Additional Tax Relief for Small Businesses. Since some of the tax relief in the HIRE Act, Recovery Act, and Small Business Jobs Act was temporary in nature, the Administration's FY 2012 budget proposes additional, longer-term tax relief for small businesses to encourage sustained growth and investment. First, the budget baseline assumes that the amount of small business expensing permitted each year is permanently increased to $125,000, instead of allowing it to fall to $25,000 as it would under current law. This would reduce taxes on small businesses by $44 billion over the next 10 years, and provide a continued incentive for them to invest in plants and equipment. Second, the budget proposes to permanently eliminate the tax on gain from the sale of qualified small business stock, making investments in certain small businesses more attractive. And third, the budget proposes doubling the small employer retirement plan start-up credit. In conjunction with the automatic IRA proposal, the budget proposes to increase the maximum credit for small employers' start-up expenses for establishing a new retirement plan from $500 to $1,000 per year.

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Helping Small Businesses Access Capital

Access to capital is critical to helping small businesses thrive and hire, especially as the economy continues to recover. The Obama Administration has used an array of policy tools to help improve the flow of capital to small businesses throughout different stages of their growth.

Maintaining Access to Capital During the Crisis. In early 2009, our first priority was supporting financial institutions' access to capital and breaking the back of the financial crisis. The Troubled Asset Relief Program (TARP) and other emergency programs created during that time helped stabilize the financial system, supported banks' abilities to serve their communities, and bolstered the securitization market for small business loans. While the Bush Administration invested $165 billion of the $234 billion in TARP funds it committed in the eight largest financial institutions, we broadened its reach and invested in smaller banks – ones that provide critical access to credit for small businesses in countless cities, rural areas, and communities across the country. Of the financial institutions receiving Capital Purchase Program and Community Development Capital Initiative investments, 90 percent were small banks.

But the depth and severity of the financial crisis – and the stigma that soon became associated with TARP investments – required us to try new tools to support small banks and help small businesses access capital.

Working with Congress, we have implemented a broad variety of policies and programs to help small businesses access the capital they need to grow, expand, and hire.

Increasing Loan Guarantees and Reducing Fees. The Recovery Act in February 2009 and the Small Business Jobs Act in 2010 temporarily increased loan guarantees and decreased fees for the Small Business Administration's 7(a) and 504 loan guarantee programs, supporting $42 billion in lending to small businesses. The Small Business Jobs Act also permanently increased SBA loan limits, which supported over $2.6 billion in loans within the first three months after the increase that otherwise would not have been awarded.

Implementing New Public-Private Partnerships. In addition to the provisions in the Small Business Jobs Act that cut taxes and supported SBA's loan programs, the Act created two new public-private partnerships designed to increase lending to small businesses around the country. The State Small Business Credit Initiative (SSBCI) funds state programs that support small business lending and investing to businesses that have had difficulty accessing credit and capital as a result of the economic crisis, collateral deterioration, and other issues. The Small Business Lending Fund (SBLF) provides capital to healthy community banks that are well-positioned to increase loans to small businesses, which are overwhelmingly reliant on banks to access capital. Congress designed these two programs to have maximum impact by combining the resources of government with the local knowledge held by the community banks and state programs they support.

- ***The State Small Business Credit Initiative.*** SSBCI supports new and existing state small business programs at a time when many of these programs are facing cuts from state budget shortfalls. SSBCI allocates $1.5 billion to innovative state programs across the country that support loans and investments to small businesses and small manufacturers, including capital access, collateral support, loan guarantee, loan participation, and state-run venture capital programs.

Forty-seven states, five U.S. territories, and the District of Columbia applied to participate in SSBCI. Fifty of these applicants have been approved to receive funds, and 46 have already received the first of three funding disbursements. We expect this support to result in nearly $13 billion in new small business lending. Alaska, North Dakota, and Wyoming did not apply for state-wide programs, but municipalities in each of these states have submitted applications to access the funds that Congress allocated them. In this way, municipalities can still benefit from SSBCI, even if they are located in states that did not apply for funding.

Approved state programs in California ($168 million), Kansas ($13 million), Michigan ($78 million), Missouri ($27 million), and North Carolina ($46 million) have already began using SSBCI funding to increase lending to small businesses, while other states have begun establishing pipelines of loans now that funds are available. Missouri's state run venture capital fund, for example, has already completed its first round of funding with SSBCI support, investing a total of approximately $7 million to 18 small businesses.

- ***The Small Business Lending Fund.*** Treasury's Small Business Lending Fund provides capital to community banks with assets of less than $10 billion that are well positioned to expand their small business lending. The SBLF provided more than $4 billion through Treasury purchases of preferred stock or debt instruments to 332 banks and loan funds located across the country. Since banks leverage their capital, we expect the SBLF to increase lending to small businesses in an amount that is multiples of the total capital provided to participating banks, helping small businesses in their communities to expand and create new jobs.

  The program is structured to encourage community banks to increase their lending to qualified small businesses through a dividend rate incentive. The initial rate is, at most, five percent, but the rate falls as low as one percent if a bank's small business lending increases by 10 percent or more. Banks that increase their lending by less than 10 percent pay rates between two percent and four percent. If a bank's lending does not increase in the first two years, however, the rate increases to seven percent. After four and a half years total, the rate increases to nine percent (if the bank has not already repaid the SBLF funding). In addition to encouraging banks to lend to qualified small businesses, this dividend incentive structure also establishes a clear metric for measuring changes in lending by banks participating in SBLF.

Supporting Small Businesses in Hard Hit Communities. The SBLF program is also open to non-profit loan funds, which are certified as Community Development Financial Institutions (CDFIs) by Treasury's CDFI Fund. These non-profit institutions play a critical role in distressed communities across the country that lack access to mainstream financial services, and engage in activities ranging from offering microloans to entrepreneurs, providing mezzanine debt to growing small businesses, and financing community facilities like charter schools and health clinics. SBLF approved 51 non-profit community development loan funds for SBLF investments totaling $104.5 million.

Treasury's CDFI Fund is also undertaking other critical initiatives to support small businesses in distressed communities. The Administration launched a new capacity building initiative to expand technical assistance and training opportunities for CDFIs across the country so that they may better engage in small business lending. It also has worked with the SBA to expand the 7(a) loan program to CDFIs with experience lending to small businesses. In February, the SBA launched the Community Advantage Program, which permits CDFIs and other non-profit lenders to apply for authority to issue government-guaranteed 7(a) loans of up to $250,000. These smaller dollar loans will help support small business formation and growth in underserved communities around the country.

The CDFI Fund also administers the New Markets Tax Credit (NMTC) Program, which has helped deliver $21 billion in private sector investments into businesses and real estate projects in some of the Nation's most distressed communities. Approximately one-third of those dollars are invested in operating businesses and two thirds are invested in real estate projects.

In June, the IRS proposed significant regulatory reforms to the NMTC Program that will help more operating businesses take advantage of the NMTC. These reforms are designed to help drive additional investment to operating businesses to bring more balance to the investments benefiting from the program. The public comment period for the proposed reforms closed in early September, and the IRS held a public hearing later that month. We expect the IRS to propose a final rule in the coming months.

Encouraging High-Growth Small Businesses

Since start-ups and small businesses capable of rapid growth and innovation create the majority of new jobs, this group of small businesses is especially important. The Administration recognizes their important role in the economy, and has been committed to exploring ways and enacting policies to support this special set of small businesses.

Outreach and Open Dialogue. In March, Treasury co-hosted "Access to Capital: Fostering Growth and Innovation for Small Companies," a conference to examine challenges facing start-ups and high-growth companies, identify barriers to their success, and find new ways for the private sector and public sector to cooperate. The conference convened policymakers, business leaders, entrepreneurs, and academics to discuss new ideas, such as the Administration's proposal to permanently eliminate the capital gains tax on small business stock. These ideas will be important for helping small businesses overcome hurdles, particularly in an environment where credit is constrained, to build a more competitive economy over the long term. The SBA also recently conducted roundtables in states around the country to get input from entrepreneurs on how to eliminate burdensome government barriers, and federal agencies are reviewing the feedback participants provided.

Collaboration. The Administration has placed a strong emphasis not only on listening to America's entrepreneurs, but on working together with business leaders, labor leaders, academics, and other stakeholders to explore policies to help small businesses succeed and support entrepreneurs efforts to launch and cultivate new businesses.

- ***The President's Council on Jobs and Competitiveness.*** The President's Council on Jobs and Competitiveness, created in January 2011, has brought together leaders from business, labor, and academia to offer forward-thinking ideas, with an eye towards the small, high-growth businesses, to increase job growth and make sure our economy can adapt to changing times. In October, the Council held its quarterly meeting with the President in Pittsburgh, where the Members released their interim report on ideas to increase jobs creation and long-term American competitiveness in the global economy, many of which target these smaller, fast-growing enterprises.

  The Obama Administration is already making progress on a number of areas identified in the Council's strategic recommendations. Last month, the President signed the *America Invents Act* – the most significant reform to patent law since 1952 – which streamlines and improves processes around intellectual property so entrepreneurs and inventors can commercialize their technologies more quickly and turn them into the core of job-creating businesses. In August of this year, the Administration announced a comprehensive effort to attract and retain highly skilled entrepreneurs by making it easier for talented immigrants to qualify for work-related visas, and by streamlining the visa application process. And last month the Commerce Department – through its Jobs and Innovation Accelerator Challenge – announced $37 million in awards to 20 private-public partnerships that will form the basis of regional innovation clusters across the country.

- ***Startup America.*** In addition, in January 2011, the White House launched the Startup America initiative, which promotes entrepreneurship in all parts of the country and commits multiple federal agencies to expand access to capital for startups, reduces barriers to business formation and growth, and fosters mentorships and collaboration between large corporations and startups. At the same time, the President issued a call to action to the private sector to promote high-growth entrepreneurship. In response, an alliance of entrepreneurs, foundations, corporations, and nonprofits launched the Startup America Partnership, an independent entity delivering strategic and substantive resources to help entrepreneurs start and scale companies, accelerate technology commercialization, and support entrepreneurial education and mentoring programs. Most recently, the Startup America Partnership announced its Board of Directors and announced $730 million in private-sector commitments from corporate partners that provide entrepreneurs and small firms with free or discounted products and services.

Expanding Export Opportunities for Small Businesses

President Obama announced the National Export Initiative (NEI) in his 2010 State of the Union address and set a goal of doubling U.S. exports by the end of 2014, and we are on pace to meet it. In July, nominal exports increased $6.2 billion, or 3.6 percent, to the highest monthly level on record – $178 billion. Overall, exports in the first seven months of 2011 have increased 16 percent over the same period in 2010.

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The NEI places a priority on supporting small businesses, which face unique challenges ranging from insufficient knowledge of foreign markets to fewer resources to address trade barriers to accessing credit.

Helping Small Exporters Access Financing. For many smaller exporters, public-sector financing is critical for them to successfully compete in foreign markets. The NEI calls on the trade finance agencies, primarily the Export-Import Bank, the SBA, and Department of Agriculture, to increase the availability of credit to small and medium-sized enterprises. In 2010, trade finance agencies supported over 5,000 transactions, with a total export value of $36.8 billion. Nearly $11.3 billion came from small firms. And from January to July 2011, the SBA guaranteed 588 of 657 export finance loans for small businesses, for a total export value of $365 million. The SBA also trained 2,247 individual lenders, primarily community bank representatives, on how to make international trade finance loans.

In January 2011, as part of NEI and in partnership with the Commerce Department, the U.S. Trade Representative, the Small Business Administration, the U.S. Chamber of Commerce, the National Association of Manufacturers, and several lenders, the Export-Import Bank launched a new initiative called Global Access for Small Businesses. The program's goal is to increase the number of small businesses that export goods and services to create jobs, and it aims to reach $9 billion in annual small business export financing, add 5,000 small businesses to its portfolio, and cumulatively approve $30 billion in transactions to small businesses. Between January and August 2011, the Export-Import Bank generated $7.3 billion in loan authorizations for over 1,800 small businesses, putting the Ex-Im Bank on track to exceed its $10.3 billion total from 2010.

The Small Business Jobs Act also focused on helping small businesses benefit from export opportunities. It made the SBA Export Express pilot loan program permanent, with 90 percent guarantees for loans up to $350,000 and 75 percent guarantees for loans between $350,000 and $500,000. It also increased the maximum loan size for SBA's Export Working Capital loans and International Trade Loans from $2 million to $5 million.

Helping Small Exporters Access New Markets. Since the start of the NEI, the Department of Commerce's Trade Agreements Compliance Program has initiated over 250 new market access and compliance cases and successfully resolved over 100 specific trade barriers affecting a broad range of industries. Through this program, the Department has worked with other U.S. Government agencies to help U.S. businesses overcome trade barriers, including intellectual property rights problems, by working to remove the foreign government impediments to U.S. exports.

The Small Business Jobs Act also created a new $90 million grant program to help states expand their trade and export promotion efforts. Awards for the first year of the State Trade and Export Promotion (STEP) grants were announced in September 2011.

Last week Congress took decisive action to pass a trade package that approved trade agreements with Korea, Colombia, and Panama and renewed a strong and robust Trade Adjustment Assistance (TAA) program for American workers displaced by trade. This step will benefit the

U.S economy, American workers, and open up new opportunities for small businesses to compete in the global marketplace. Every $1 billion in new exports of American goods supports more than 6,000 additional jobs here at home; the same amount of services exports supports more than 4,500 U.S. jobs. These agreements reaffirm U.S. leadership in global trade.

Helping Small Exporters Find New Customers. One difficulty small businesses face is simply identifying new customers in export markets. From January 2011 to July 2011, the Department of Commerce organized 23 trade missions to 19 countries, with the 475 companies participating securing over $806 million in export sales as a direct result of these trade missions. By comparison, from January 2010 to July 2010, Commerce coordinated 19 trade missions to 24 countries, with nearly 250 companies participating and securing over $86 million in sales. In addition, the Department of Commerce's International Buyer Program recruited over 10,150 foreign buyers to visit major U.S. trade shows and directly connect with U.S. companies in the first seven months of this year – almost 2,000 more than were recruited during the same period in 2010.

Increasing Federal Contracting with Small Businesses

The Administration has refocused efforts to increase contracting opportunities for small businesses. Congress has set goals for the portion of annual Federal contracting dollars awarded to small businesses, along with subgoals for small businesses owned by women, socially or economically disadvantaged individuals, service-disabled veterans, and small businesses located in Historically Underutilized Business Zones (HUBZones). Since 2006, the Federal government has missed its annual small business contracting goal and most of the subgoals.

However, today we are making substantial progress towards reaching these important goals. In the 2010 fiscal year, the Federal government awarded 22.7 percent of its contracting dollars to small businesses – the largest two-year increase in over a decade. Last year, we awarded higher contracting dollar amounts for small businesses overall – as well as for women, veterans, and other small business subgroups. Nearly a third of all Federal contracting dollars resulting from the Recovery Act went to small businesses. And the Small Business Jobs Act included 19 provisions that improve small business contracting and oversight that the SBA is currently working to implement.

Based on preliminary data, we are very proud that for the 2011 fiscal year, for the first time, Treasury not only met, but exceeded, our overall small business contracting goals and all four small business subgoals.

The SBA is currently working to implement specific recommendations the President's Interagency Task Force on Federal Contracting Opportunities for Small Businesses laid out in September 2010. The Task Force offered 13 recommendations and three core objectives to help close the gap in small business contracting and reach our goals: strengthening and updating policies that help provide contracting opportunities, and create new ones where they are lacking; increasing the knowledge base and efficiency level of the procurement workforce and providing appropriate incentives and accountability for agencies to meet small business goals; and easier access to procurement information and improving accuracy of procurement data.

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The Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA) highlights our attention on Federal contracting opportunities for small businesses that are owned by women or minorities. Section 342 of DFA created Offices of Minority and Women Inclusion (OMWIs) in the Department of the Treasury headquarters and all Federal financial regulatory agencies. The OMWIs track how each agency's policies and regulations affect minority- and women-owned businesses, and are required to develop procedures to make sure, to the maximum extent practicable, the fair inclusion of minority- and women-owned businesses in all activities of the agency, including procurement and all types of government contracts and subcontracts. The establishment of OMWIs is an important milestone for promoting and maintaining fair inclusion and opportunities for firms owned by minorities and women.

The Administration will continue its efforts to leverage the creativity, innovation, and expertise of small businesses through expanding opportunities for them to benefit from Federal contracts.

sblf | small business lending fund

Overview of the Application Review Process

for the Small Business Lending Fund

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Overview of the Application Review Process for the Small Business Lending Fund

Introduction

Small businesses are a vital part of the American economy. Their success is a necessary component of the economic recovery. Currently, many small businesses face challenges accessing the credit they need to grow and hire. Created in the Small Business Jobs Act of 2010 (the "Jobs Act") to increase small business lending, the Small Business Lending Fund ("SBLF") is designed to provide capital to qualified community banks and community development loan funds so Main Street financial institutions and small businesses can work together to help create jobs and promote economic growth in communities across the country.

This document describes the review process for community banks and thrifts that applied for SBLF funding. In total, 932 institutions applied for $11.8 billion in SBLF funding.

Treasury engaged directly with community banks and community development loan funds to build nationwide awareness about opportunities to participate in SBLF. These activities included participating in nearly 40 industry events and teleconferences, hosting 15 webinars attended by more than 1,000 viewers, and completing more than 4,200 outbound calls to eligible institutions to provide information about the SBLF program. Treasury also established a dedicated website and call center that received more than 75,000 visits and 1,800 calls respectively.

As of September 1, 2011, Treasury has issued preliminary approvals to hundreds of eligible and qualified institutions that applied for the program. In total, these 382 institutions have been approved for $4.3 billion in SBLF funding. Of these, Treasury has now announced and closed fundings with 130 institutions for more than $1.8 billion, and all closings will occur by September 27, 2011, the statutory end of the program.

Application Review Process

To protect the taxpayer's investment in this important program, Treasury worked closely with the federal banking agencies to develop and implement a thorough application review process. Treasury consults with each eligible applicant's state and federal banking regulators and performs a detailed financial assessment, including an evaluation of the institution's likelihood of repayment, as well as a review of the applicant's small business lending plan.

Of the 932 applications received, more than 40 percent failed to meet minimum statutory or program requirements and therefore could not be approved. Of the applicants that did meet these minimum requirements, Treasury has approved all institutions qualified for taxpayer investment and well-positioned to extend credit to businesses in their communities.

Treasury evaluated all applications for SBLF funding received from banks and thrifts using a uniform, multi-stage review process, described as follows.

Requirements for Consideration

1. ***Verification of Preliminary Eligibility.*** Treasury verified the preliminary eligibility of each applicant using publicly-available information to determine whether the applicant met the program eligibility requirements, confirming that:

   - The institution was in existence and had less than $10 billion in total assets on December 31, 2009.
   - If the institution is a current or former participant in the Capital Purchase Program (CPP) or Community Development Capital Initiative (CDCI), it had not missed more than one dividend payment under such program (where a missed payment is defined as a payment not submitted or submitted more than 60 days after the due date).

2. ***Verification of Supervisory Eligibility.*** Treasury consulted with the Federal Deposit Insurance Corporation (FDIC) to determine whether the applicant was on problem bank list (defined as the list of institutions that have a current rating of 4 or 5 under the Uniform Financial Institutions Rating System), or had been on this list within the last 90 days.

   In the case of institutions that are bank or thrift holding companies, Treasury verified that these applicants did not have any insured depository institution subsidiaries that were on the problem bank list, or that had been on this list within the last 90 days.

3. ***Ability to Pay Dividends.*** Treasury required each applicant to complete an Inquiry Regarding Dividend Payments form confirming that the institution was able to pay dividends on SBLF securities. The Jobs Act prescribes a specific dividend rate incentive structure for SBLF investments to encourage institutions to increase their small business lending. Institutions must be able to pay dividends on SBLF securities as a condition of participation in the program.

   Treasury published a summary of terms for the SBLF program on December 20, 2010 that states that participating institutions are required to pay quarterly dividends on SBLF funding. In May, Treasury provided further information to applicants regarding this requirement so that institutions subject to restrictions on dividend payments would have additional time to seek their removal or waiver. Since these restrictions are imposed by an institution's prudential supervisors or applicable banking statutes or regulations, institutions subject to such restrictions needed to work directly with the appropriate governmental entities to obtain permission to pay dividends on SBLF funding.

4. ***Receipt of Supervisory Consultations.*** Treasury consulted with each applicant's appropriate federal banking agency and considered views received from the applicant's state banking regulator, if applicable.

   The federal banking agencies provided Treasury with certain supervisory and financial metrics, a supervisory validation of viability for the applicant, and a written description of the applicant's condition. For the purpose of these consultations, the term "viability" is defined to mean that the applicant is (i) adequately capitalized, (ii) not expected to become undercapitalized, and (iii) not expected to be placed into conservatorship or receivership. The agencies' written description related to material supervisory issues with respect to the institution, including ongoing financial condition and enforcement actions, if any. In addition, the agencies received and reviewed the small business lending plan submitted by each applicant.

   For applicants that are state-chartered, or had insured depository institution subsidiaries that are state-chartered, Treasury also requested and considered views received from the applicant's state regulator.

To receive SBLF funding, an applicant was required to receive a positive supervisory assessment from its appropriate federal banking agency. However, as described below, the Application Review Committee engaged in further consideration of any application that did not initially receive such an assessment from its regulator to confirm their determinations.

Application Consideration

5. ***Review by the Application Review Committee.*** The Application Review Committee was a deliberative body composed of senior banking supervisors from the FDIC, Federal Reserve Board, and Office of the Comptroller of the Currency that were detailed (i.e., assigned) to Treasury to serve in this role.

   The purpose of the Application Review Committee was to ensure that the supervisory consultation process was applied effectively across SBLF investment decisions, and to provide recommendations to Treasury on certain SBLF applications as an additional control point and quality assurance mechanism. In general, applications were reviewed by the Application Review Committee if they met one or more of the following criteria:

   - Institutions with a "3" composite CAMELS/RFI rating.
   - Institutions with a composite CAMELS/RFI rating of "1" or "2" but which had one or more adverse performance ratios.
   - Institutions with a composite CAMELS/RFI rating of "2" for which the most recent onsite examination was more than 12 months old or for which subsequent quarterly offsite exams indicated deterioration.
   - Institutions that were identified by the appropriate FBA for consideration with matching private investment.
   - Institutions for which Treasury's investment analysis indicated a probability of loss above budgeted levels.
   - Institutions that received an inconsistent supervisory input from the relevant state and federal banking regulators.
   - Institutions that were otherwise recommended for review by Treasury staff.

   The Application Review Committee also engaged in additional review of all applications that did not receive a positive supervisory assessment from the appropriate federal banking agency. Any additional considerations raised in the Application Review Committee's review were shared with the relevant federal banking regulator, which then was invited to reevaluate the institution and provide an updated consultation to Treasury, if appropriate.

6. ***Review by the SBLF Investment Committee.*** The SBLF Investment Committee considered each application that fulfilled the minimum statutory or program requirements, and, if applicable, received a positive review from the Application Review Committee.

   The Investment Committee is a five-member body, which includes the SBLF Director (Chairman) and the Assistant Secretary for Financial Institutions, the Assistant Secretary for Financial Markets, the Assistant Secretary for Economic Policy, and the Assistant Secretary for Management or their delegates. Recommendations of the SBLF Investment Committee are made by a majority vote of the present members.

Treasury staff prepared a comprehensive set of materials for each application for the Investment Committee's review. Materials compiled for each application included:

- The supervisory consultations submitted by the applicant's appropriate federal banking agency and state banking regulator, if applicable.
- An assessment of the probability of repayment for each investment, prepared by financial agents of the Treasury, including an evaluation of the applicant's capital structure, asset quality, capital adequacy, earnings capacity, and access to funding. This assessment considered, among other elements, the institution's expected forward ratio of Tier 1 common equity to risk-weighted assets at the end of the program's 4.5 year dividend rate incentive period.
- The institution's small business lending plan and an evaluation thereof completed by Treasury staff.
- An investment recommendation prepared by Treasury staff, including supporting data and analysis. This recommendation integrated the views of the financial agent with the supervisory consultation provided by federal and state banking agencies.

All approval recommendations made by the Investment Committee were considered for preliminary approval following the Investment Committee's decision, as described below. Applications that did not initially receive approval recommendations were reconsidered by the Investment Committee following the release of June 30, 2011 quarterly financial results.

Application Approval

7. ***Preliminary Approval.*** Applications that were recommended for funding by the Investment Committee were presented for approval by the Deputy Assistant Secretary for Small Business, Community Development, and Housing Policy (the "Authorized Official").

8. ***Final Approval & Transaction Completion.*** The Authorized Official provides final approval for all fundings. Prior to completing a funding, Treasury solicits and receives confirmation from the appropriate federal banking agency that there has been no material change in the institution's supervisory condition.

   In addition, Treasury staff evaluates information regarding the applicant that has been made available subsequent to the SBLF Investment Committee's initial recommendation, including the institution's transaction disclosure schedules. The SBLF Investment Committee and/or the Authorized Official review this additional information as appropririate prior to completing the transaction.

Application of Matching Private Investment

For institutions that would not otherwise receive approval for SBLF funding, the Jobs Act permits Treasury and the appropriate federal banking agency to consider whether an applicant would qualify for SBLF funding if the applicant also raises matching private investment ("Private Investment").

Because weakness in an institution's regulatory capital position is frequently a consequence of unsatisfactory performance with respect to other supervisory elements such as management, asset quality, and earnings, the application of Private Investment was not appropriate in all cases. In making such assessments, Treasury and the appropriate federal banking agency may have considered, among other factors:

- The level, composition, and quality of regulatory capital.
- Overall asset quality and trends in asset quality, including the potential need to increase reserves and write down assets.
- Causes of historical losses in loans, securities, and other assets, and the likelihood that such underlying causes may be of a recurring nature.
- The level and quality of current and prospective earnings, including earnings capacity under plausible economic scenarios, and the likelihood that forward earnings will be sufficient to replenish levels of regulatory capital.
- The capability of key managers and the Board of Directors, responsibility of existing board of directors or management for decisions that have resulted in reductions in regulatory capital levels, and quality of risk management, internal controls, and underwriting practices.
- The institution's ability to pay dividends and redeem outstanding securities as appropriate and in a timely manner without additional capital investment, including both SBLF securities and other outstanding securities.

Example Scenarios Regarding the Application of Private Investment

The following lists examples of situations in which the application of Private Investment could be found to be appropriate, among others:

- Institutions that have experienced significant losses in their securities portfolio, the source of which would not otherwise prompt concerns regarding investment or asset-liability management practices.
- Institutions that have experienced asset impairments assessed to be of a temporary nature, such as those arising from natural disasters or similar finite events, and for which the assets in question would reasonably be expected to recover in value.
- Institutions that have experienced historical losses that have depleted capital, but have since resolved these legacy asset quality challenges and returned to profitability, potentially following the investment of additional capital from private sources or introduction of new management.
- Institutions that may have sufficient capital to sustain their business operations, but would need additional capital to service dividends or redemptions of securities, whether mandatory or optional, with respect to either securities issued under SBLF or other outstanding securities.

For More Information

To learn more about the Small Business Lending Fund, please visit www.treasury.gov/SBLF. For communications pertaining to a specific institution, please email SBLFInstitutions@treasury.gov.

For media inquiries, please call the U.S. Department of the Treasury Press Office at (202) 622-2960.

Chair LANDRIEU. Thank you, Mr. Secretary.

Let me begin. I would like for you to reiterate the initiatives the Administration has taken in reducing the tax burden to small business, because I think that is important.

I do agree with Senator Snowe, although we disagree about other aspects of the bill before us, that giving some long-term stability and relief in the tax code is important. Of course, we do not have this in the Small Business Committee jurisdiction. That is a finance issue, but we have provided ideas along those lines.

I would like for you to reiterate again some of the accomplishments of lowering tax rates to businesses and what you intend to continue to do in that regard.

Secretary GEITHNER. Well, let me just say that I completely agree that the tax system we have today for businesses, where you have tremendous uncertainty year by year about what the basic tax rates you are going to pay, and a system which is riddled with special preferences, is a system that needs reform.

And it is very important as we focus on these short-term things, temporary things to help get the economy going more rapidly, we keep our eye on the long-term reform imperatives for exactly the reasons Senator Snowe said and you said. We need a little more clarity and certainty about the basic environment businesses face on the tax side, and we want a system that creates better incentives for investment in the United States.

But we are not going to do—even if the Super Committee is tremendously effective in beginning this process, we are not going to do fundamental tax reform in two months. And so, our general view is as we start to lay the foundation for a broader political consensus on comprehensive tax reform that lowers the corporate rate, broadens the base, makes investment in the United States more competitive, we need to be doing some things now to help get the economy growing more rapidly.

In my testimony, I listed the full array of temporary—and Senator Snowe is right to say they were temporary, or short-term, tax incentives, but they are a very powerful set of tax incentives.

Again, the two that I think are most powerful, two types, are zero capital gains for investments in small businesses. That is good for startups, a very compelling case for that, and that has very broad bipartisan support. But we did a whole range of other things to make expensing more generous, temporarily, and that helps pull forward capital investment, makes it much more likely that businesses are investing today to meet the demand that will come later.

This is the broadest, most sweeping, and I think pretty creative mix of tax incentives that Congress has ever considered, I think for small businesses, in a very short period of time. But again, I wanted to emphasize again that we should think about this is a bridge to fundamental long-term tax reform, not as a substitute for it.

Chair LANDRIEU. Let me ask you about regulatory relief, and then my last question will be actually about this program because I want to remind everyone that the hearing is really focused on the jurisdiction of our business and the small business lending. Since it has been raised, I do also hear a lot of criticism about over-regulation. Could you comment on the actions you are taking with other members of the Administration to review that and what some of your initial findings are in terms of trying to reduce regulations on small business?

Secretary GEITHNER. Well, the President has been—the President and Cass Sunstein, who runs this effort at OMB, have undertaken a comprehensive review of the existing body of regulation and announced a series of changes to regulations that are designed to get regulations smarter, reduce the burden where we can. And I am completely supportive of that, and I am sure there is a whole range of work we could do in that area.

And it is absolutely true that because of health care reform, financial reform, the changes we are making to encourage Americans to use energy more efficiently, we are changing the basic protections that Americans depend on and businesses depend on across the economy. And that is, the change in that context is, things people have to adjust to.

In our judgment, if you look at the evidence—and Senator Snowe, when you quoted me last week, I was quoting a Republican economist, Bruce Bartlett, who concluded, looking at the evidence, that it is very hard to find evidence across the economy today that regulation is having a material effect on growth at all.

And the evidence he cited is the following: It is worth looking at this. If you look at profitability, if you look at employment in the sectors of the economy where there has been the most reform in prospect, and I mentioned three of those areas, there is no evidence that suggests that profitability is lower in those cases. In fact, if you look across the American economy today, the level of profitability across the business sector, as you know, is at historically high levels.

Now again, having said that, I think it is very important that we put a much greater burden on all of us to make sure that as we are changing the rules, designing stronger protections, we do so in ways that are sensible, that we get regulations smarter, not just more of it, and we are going to continue to look for ways of doing that.

But the biggest problem facing the economy today, and if you look at every poll of what businesses say today, what they say is their overwhelming challenge is they do not see enough growth in demand for their products. Now they have other concerns too, but they list those all way, way down the list of issues of concern. And a much smaller fraction of businesses, if you look at broad surveys, would put regulations as a meaningful challenge relative to those broader challenges of economic growth.

Again, I am very sympathetic to the argument you want to be careful to get the rules better and smarter, but I do not think there is good evidence in support of the proposition that it is regulatory burden or uncertainty that is what is causing the economy to grow more slowly than any of us would like.

Chair LANDRIEU. Okay. One final question, and I will extend equal time to Senator Snowe. One of the criticisms of the SBLF program, despite the fact that we are going to get between $4 billion and $9 billion in lending out, is that it was too TARP-like. Could you comment briefly on that and explain despite all the criticism of TARP, that it looks like from the lending from TARP, as well as this, the taxpayers will actually make money?

Secretary GEITHNER. Well, again, you have to look at the independent assessments of the CBO and others, and the conclusions they reached—and it is what the mass supports—is that those programs will earn a substantial positive return to the taxpayer.

Chair LANDRIEU. So you are testifying——

Secretary GEITHNER. The current estimates are over $10 billion in positive return to the American taxpayer, but that is not the most important benefit they had.

The most important benefit those investments had for banks is they helped take an economy that was falling off the cliff when the President took office and economic growth began again in the second quarter of 2009, just 3 months after the President took office, because of the scope of the measures that Congress helped the President enact, including the programs put in place to make sure banks were more stable, people's deposits in banks were more stable, their savings were protected and we did not face the kind of broader catastrophic collapse we saw in the Great Depression.

Now these capital programs—and it is true for the SBLF, the CDFI fund—the TARP-related investments in banks are, by any measure, one of the most efficient uses of taxpayers money we have because every dollar of capital you make available to a bank who cannot get capital from other sources, is worth somewhere between $8 and $10 of lending capacity, meaning if you have that dollar of capital you have less need to cut lending to your business customers if you are under pressure and you have more capacity to expand lending.

So again, these are very effective, very successful programs, and where—and I would like to talk about this in more detail when I want to get to your concerns about speed in this context. Where they have been slower to get off the ground it is because we have been very careful to make sure that these investments came with strong protections to protect the taxpayers' interest.

Chair LANDRIEU. Thank you.

I am going to allow seven and a half minutes to Senator Snowe and five minutes on the first round.

Senator SNOWE. I guess the point on that question is the fact that many of the recipients would have made those investments in small business lending anyway because it was de minimus level of lending they were doing anyway, 51 percent of the recipients.

Secretary GEITHNER. Well——

Senator SNOWE. That is the point here.

It was all recognized at the time. It was identified as one of the major issues, that they did not need that incentive. We are talking about a 1 percent or 2 percent interest rate. That is what it was, if they increased their lending, and that was sort of the minimum level of lending——

Secretary GEITHNER. Well, Senator, I know that——

Senator SNOWE [continuing]. That banks would have done in the normal course of business.

Secretary GEITHNER. Senator, I respect and understand fully your concerns with the original design of this program, but I do not agree with you about them. I think what we tried to do, and what your colleagues in the Congress were very successful in doing, is to try to combine investments in banks with an incentive designed to improve the odds they use that to lend.

Now you cannot force banks to lend, but for every bank that got capital in this program they have more capacity to lend than they otherwise would have had. And I am not aware of a more effective way than this, alongside all the other things we did on the tax side more generally, that can help get more credit to small businesses.

I am very supportive, as you are, of the SBA guarantees. I think there is a very good case for those things, but those were not enough, and we had to complement those with ways to make sure banks had access to capital.

Now not all banks needed capital. Some banks can go on their own. And not all banks deserve capital or are eligible for capital, but there is a significant universe, as I said, 10 percent of community banks across the country, where there was a very good economic case for giving them an investment with a return to the taxpayer. And as I said, the evidence shows very good return to the taxpayer.

Senator SNOWE. We are talking $1.8 billion out of $30 billion went to increase small business lending.

Secretary GEITHNER. Well——

Senator SNOWE. I am just telling you those are the facts. Fifty-one percent of the recipients have already increased their lending. They have already met that lower level.

Secretary GEITHNER. Can I respond to those concerns because I think those are important?

Senator SNOWE. You can very quickly because I want to move on. Those are the facts.

Secretary GEITHNER. What Congress authorized was a $30 billion program. Okay?

Now banks applied for only one-third of the capital in the program. We cannot force banks to come. We made a major effort alongside many of you to make sure banks were aware of it, but banks came for only one-third of the program, and only half were eligible.

Now why were only half eligible? They were only eligible because we had to be careful to make sure that the taxpayers' resources were going to banks that were viable. And we were not going to take too much risk. We are going to take some risk but not too much risk so the resources were wasted.

So the reason why it is 4 is because banks only applied for one-third of 30 and only roughly half of those banks were eligible in the eyes of the supervisors.

Senator SNOWE. But Mr. Secretary, you should have known that to begin with——

Secretary GEITHNER. No, but we——

Senator SNOWE [continuing]. Who would have been eligible. And they did not even get responses to why they were ineligible.

Secretary GEITHNER. No, that is—now, Senator, we never——

Senator SNOWE. It is true. You know that is true.

Secretary GEITHNER. Senator, we—I think you are aware of this. We cannot force banks to come, and we cannot——

Senator SNOWE. I did not say you force them to come. I am saying that you should have known in advance how this program would work.

We have a $30 billion program and an urgent employment issue in America, and we predicated putting our eggs in that basket, and you were already forewarned about it. So that is the issue here.

Secretary GEITHNER. Senator, CBO scored this. CBO scored this initially as making money for the taxpayer. So the idea that we put resources at risk in this program we could have used for something else is not true.

Senator SNOWE. I am talking job creation. Okay? There was a whole issue as to whether or not it would ultimately do that, given the impetus for these banks to turn over from TARP to a Lending Fund, Mr. Secretary.

The Special Inspector General for TARP anticipated and indicated it. Those are the facts, and we can continue to argue it, but unfortunately if that is true——

Secretary GEITHNER. No, we do not disagree on that. Of course, we do not disagree that the facts are that banks were allowed by Congress to refinance their TARP money. They were allowed. That was Congress's intent, and there was no mystery that was going to happen. But there is a good case for that because the capital they got under this program comes with a better incentive to lend.

Now Congress made that judgment, knowing that people would say you should not have allowed them to refinance, but they did that knowingly and they did it for good reasons.

Senator SNOWE. No, just under the Inspector General, Department of Treasury, it says in this report, May 13th, for some of the TARP banks, the Small Business Lending Fund investment will simply replace the amount of funds invested under TARP.

Secretary GEITHNER. That is right. You are exactly right. And he is right, but there is no insight in his observation because that was Congress's intent.

Senator SNOWE. Yes. Well, Mr. Secretary, the point is $1.8 billion out of $30 billion went to increase small business lending.

I know you are saying in your testimony that we are going to do lending up until we leverage the law in 2014 and 2016. People cannot wait. There have been too many faulty assumptions and miscalculations, and regrettably, the burden of which has now been borne by so many unemployed people.

I would suggest whoever, whichever economist you are talking to, I would suggest they go down on Main Street because 74 percent of the American people think we are moving in the wrong direction.

I would love to take you on a street tour. I have invited you before. I really do think you need to listen to an average American and what they are facing right now on Main Street, which is a decimation.

When you talk about all those tax provisions and you know they are all temporary, that is the point. A one year tax policy is not going to make a major difference. Some of those initiatives are worthwhile, but the bottom line, given the mixed message coming out of this Administration on tax and regulatory policy, they do not dare.

I am hearing from everybody, regardless of size, and that is all I am indicating to you, Mr. Secretary. I am not making it up. I did not make it up in February. I did not make it up last year. And I have been trying to get the Administration to concentrate on jobs, jobs, jobs.

I do not know who you are talking to. I do not know who the President is talking to. But you need to talk to the average person, unfettered, unfiltered.

Go down to Main Street and ask them what they are talking about. What they are talking about is we do not dare make a move because after one year then what, given the dynamics of this economy?

Even Jeffrey Immelt, the CEO of GE and Chair of the President's Jobs Council, said in an article in Dayton, Ohio back on May 13th, the final priority is improving collaboration between government and business with regard to regulation. Decades of overlapping and uncoordinated regulations create unnecessary hurdles, increased burdens for entrepreneurs and businesses, large and small, across this country.

The point is that is what is happening—tax reform and regulatory reform.

I was on a tax reform panel with you back in February of 2009 at the White House, and we talked about it. We all agreed we needed it.

And you say well, we cannot do it in two months. Why not?

It cannot be done by Congress alone. It should be the President and the Congress working together, both branches.

I was here when President Reagan was elected, and we were facing very severe circumstances, and we had 10.6, 10.8 percent unemployment. And guess what? You had a Democratic House and Republican Senate, and we worked hand-in-glove to get it done for the American people.

Rome is burning, and we are facing the decimation of our communities. They want help, and they feel that they are not getting any, any deference from the Administration and yes, in Congress, for that matter, to work together.

You are talking about policies in 2014, 2015, 2016, but we have had 3 years of virtually the same unemployment numbers as we do today, Mr. Secretary. That is the point.

This is nothing new, and we need to get ahead of the curve at some point and make long-term, fundamental, predictable changes in our tax and regulatory policies.

I am hearing it from everybody, from Fortune 500s to companies of 3 or 1. Everybody is saying the same thing. They need certainty and stability because uncertainty has a huge price tag, and that price tag is being borne right now by unemployed Americans. And that is what we have to correct.

I am not here to find blame. I am here to get the job done for the American people.

Secretary GEITHNER. Well, we are on your side on tax reform, and the Super Committee has a chance to begin that process now.

The only thing I would say is I would encourage you again, as we are working together on these long-term challenges, do not lose sight of the near-term imperative that we have an economy not growing fast enough. And realistically, we are going to have focus on things that are a matter now, have traction right now, not just the long-term reforms that we all think are important.

But I agree with you about the tax reform, and I hope we have a chance now given the parliamentary procedural advantages the Super Committee has to do it more quickly than otherwise might be the case.

Chair LANDRIEU. Okay. I know that everybody has strong feelings about this, and the Secretary has been wonderful to give us his time.

We are going to go in order of appearance—Senator Levin.

And again, remember our hearing is about the SBLF program and credit. Our Committee does not have jurisdiction over many of these issues. I am going to try to provide leeway for everyone, because I know these are very important issues and they are very important to small business.

Senator Levin.

Senator LEVIN. Thank you very much, Madam Chairman. Thank you for calling the hearing.

Thank you for your extraordinary leadership in getting this bill passed. It took your laser-like determination to get it passed. You had to overcome a filibuster.

Now I hear a complaint that it is not being implemented fast enough? A filibuster against this bill which was so desperately needed by small business, supported by community bankers, still supported very strongly by Main Street bankers?

We have lots of Main Streets in Michigan too, and when I talk to community bankers and small businesses what they talk about are two things—number one, lack of demand, the economic situation generally, and they also talk about the availability of credit.

And this bill is aimed at providing credit, and it was filibustered by the Republicans. It is amazing to me now to hear the complaint that one part of this bill at least is not being implemented fast enough because if the Republicans had their way it would not have been in the books at all.

The Chamber of Commerce tells us that lack of demand, the economic situation, is the number one problem for businesses; the U.S. debt comes second. Regulation is not at the top. Taxes are not at the top. And as the Secretary of the Treasury just pointed out, the small business taxes have actually gone down under this Administration.

What we are desperately trying to do is to provide support for small businesses. We are trying to get collateral support for small businesses.

One part of this bill which has not yet been talked about but which I want to focus on is something called the State Small Business Credit Initiative. Forty-four states and a number of territories, as our Chairman mentioned, have made use of this initiative. I do not know whether every member of this Committee's state has made use, but the odds are that all or almost all of us come from states which have used the State Small Business Credit Initiative. It is a way of giving support to the collateral which small business provide.

The problem with the recession, and I hear this from small businesses, probably more than anything last year by the way, more than anything, was the lack of availability of credit because the value of their collateral had gone down because the value of all of our collateral has gone done.

Almost all of our homes are worth less now because of this recession than they were before the recession. Well, the same thing is true with assets of small businesses. The same thing is true with inventory value, with the building and equipment value. They have gone down because of the recession. So when small businesses go to take out a loan, the value of their collateral is less.

That does not mean less customers necessarily, by the way, and it does not mean they have not paid their bills at all.

In fact, the complaint I got more than any other complaint, far surpassing anything about regulation or taxes, that we get from small business at least last year was this collateral support problem, this collateral issue. The banks, community banks that have given them loans all their lives, now could not give them loans because the requirement of the regulators is that the collateral be a certain percentage of the wealth, and if the value of the collateral went down it was more difficult to take out a loan.

So the community bankers came to us, folks. These are Main Street bankers. These are not the big banks that came to us. These are community bankers that came to us to support a bill to help them lend to small businesses.

We have to overcome a filibuster, get it done. Part of it, we are all frustrated that it is not moving more quickly by the way. We understand that, and I share Senator Snowe's frustration in that part. But to attribute that, to suggest that this bill is a failure because part of it is being implemented too slowly when if the Republicans had their way it would not have been there at all, that is not ironic. That is kind of counterintuitive.

Now I want to talk, if I have any time left, and I do not think I do, about the Small Business Credit Initiative. And I just want to ask the Secretary basically two questions.

Is it a fact that this initiative is producing the intended effect? This is the collateral support program which the states, by the way—and this is something where we are using the states, and Michigan led the way in this, where we are using the states' funds, adding to them, offering them support that almost all of our states and our territories are taking advantage of this fund, and in their view this is a success.

Secretary GEITHNER. I agree, and you are exactly right. As a complement to the Federal programs we put in place, we thought we would work with a whole range of existing state programs, not just in Michigan but across the country. We thought we would be quicker if we work through the states, and we thought that at the state level sometimes there is a better feel with what type of programs.

But you state the case for it very well. Fifty-four states and territories submitted a notice of intent to apply.

Forty-seven states, five territories and D.C. submitted applications, five municipalities too.

Forty-six states, three territories and Washington, D.C. have been approved for nearly $1.35 billion in funds. And we are well on the way to getting that money out the door, and once we get it out the door it will work quickly because we are working with the grain of existing state programs.

Senator LEVIN. And in conclusion, I would just suggest to our members, whether they are here or not on this Committee, that to test the value of this bill they talk to two people.

Number one, they talk to their states, their economic development people, that they talk to their states to see whether or not they have applied. They all have, but a few. And if so, why they have applied. Talk to your state governors and your economic development people to test the value of that part of this bill.

And the other test would be talk to your community bankers. They will say they either got some support. In some cases, they did, not enough, but where they did not get support, that they sure would have liked it.

They wish that we would take a look at these regs to see if we cannot modify these regs, by the way, in order to make it available to more banks. And that is the complaint we get is that not more banks got it, not that it is a bad program, but that it was implemented in a very conservative way, as you put it, Secretary, to protect the taxpayers, that that made it less available to more banks.

That is the complaint I get, not that it is a bad program, but boy, we wish we could even have more banks get the benefit of this program. And that is what I think we all ought to focus on.

Thank you.

Chair LANDRIEU. Thank you.

I am going to recognize Senator Vitter in a minute, but we are going to submit to the record the timing on this bill. We received the bill from the House in early June. We were on the floor all July, could not overcome a filibuster. It is true that the Republican members did not support the bill in the Senate. We came back in September and passed it. The President signed it September 27th.

There was a lot of resistance to bringing this with the Small Business lending fund, but we will get it for the record and put in the——

Senator LEVIN. Well, then I want to correct my statement if that is inaccurate.

Chair LANDRIEU. We will get it in the record to see, but it was some time that it took us to pass this with the Small Business Lending program in it.

Senator SNOWE. Well, it came to the floor in July, and we had an August recess, and it passed September 16th in the Senate and became law September 27th.

Senator LEVIN. It still had to overcome a filibuster.

Senator SNOWE. That is pretty good for——

Senator LEVIN. Well, I think it still had to overcome a filibuster.

Chair LANDRIEU. Yes, we needed 60 votes to do it.

Senator LEVIN. It was a matter of months that it was filibustered and required 60 votes.

Senator SNOWE. It was not a matter of months. It was not a matter of months.

Senator LEVIN. Well, it was a matter of 60 votes.

Chair LANDRIEU. We are not going to argue about that now.

Senator SNOWE. Very big difference.

Chair LANDRIEU. We are going to go back and look at the record, not just the discussion on the Senate floor but when this idea came before the Small Business Committee as well.

Senator SNOWE. Okay.

Chair LANDRIEU. But we will get it in the record. Okay?

[The information follows:]

Small Business Lending Fund (SBLF) Timeline Submitted by Chair Landrieu

WHITE HOUSE IDEA	
January 27, 2010	State of the Union: President Obama proposed the creation of a $30 billion SBLF to enhance access to credit for small businesses.
May 7, 2010	Administration's legislative proposal was finalized and sent to Congress.
CONGRESSIONAL ACTION	
May 13, 2010	House Financial Services Committee Chair Barney Frank introduced H.R. 5297, the Small Business Lending Fund Act of 2010.
June 17, 2010	The House passed H.R. 5297.
June 18, 2010	The bill arrives in the Senate.
June 29, 2010	Cloture on the motion to proceed to the measure invoked in Senate by Yea-Nay Vote (66 – 33).
July & August 2010	Amendments and Debate, 2 cloture motion presented.
September 16, 2010	Third cloture on the bill invoked by Yea-Nay vote 61-38. Passed Senate with an amendment by Yea-Nay Vote (61 – 38).
September 23, 2010	House agrees to the Senate amendment 237 – 187.
September 27, 2020	Signed by POTUS; became Public Law No: 111-240.

Timeline for *the Small Business Jobs Act of 2010* (H.R. 5297)

*Submitted by Ranking Member Snowe:

05/13/2010	Introduced in House
05/27/2010	Reported (Amended) by the Committee on Financial Services
06/17/2010	Passed/agreed to in House: On passage passed by recorded vote: 241-182
06/24/2010	Motion to proceed to the bill in the Senate
07/01/2010	Senate goes in July Recess
07/12/2010	Senate returns from July Recess
08/06/2010	Senate goes in August Recess
09/13/2010	Senate returns from August Recess
09/16/2010	Passed/agreed to in Senate. Passed Senate with an amendment by a Yea-Nay vote of 61-38
09/23/2010	Resolving differences – House actions: On motion that the House agree to the Senate amendment. House agreed by a Yea-Nay vote of 237-187
09/27/2010	Signed by President, became P.L. 111-240.

1. Number of all calendar days from motion to proceed to the bill (6/24/2010) to Senate passage (9/16/2010) = 85
2. Number of days in session from motion to proceed to the bill to Senate passage = 27
3. Number of days considering the bill from motion to proceed to the bill to Senate passage = 13

Bill Summary & Status
H.R.5297

H.R.5297 [111th] HOUSE SENATE LAW Print Subscribe Email/Save Share from THOMAS
Latest Title: Small Business Jobs Act of 2010
Sponsor: Rep Frank, Barney [D-MA-4] (introduced 5/13/2010) **Cosponsors:** 20
Committees: House Financial Services
House Reports: 111-499
Related Bills:
H.RES.1436, H.RES.1448, H.RES.1640, H.R.4068, H.R.4302, H.R.5302, H.R.5332, H.R.5832, S.2771, S.2780, S.2862, S.2869, S.2917
Latest Major Action: 9/27/2010 Became Public Law No: 111-240 [Text, PDF]

STATUS: *(dates in italics indicate Senate actions)*

See also: CQ Custom BillTrack Report

5/13/2010:
Referred to the House Committee on Financial Services.
5/19/2010:
Committee Consideration and Mark-up Session Held. (Markup report: CQ)
5/19/2010:
Ordered to be Reported (Amended) by the Yeas and Nays: 42 - 23.
5/27/2010 11:18pm:
Reported (Amended) by the Committee on Financial Services. H. Rept. 111-499.
5/27/2010 11:19pm:
Placed on the Union Calendar, Calendar No. 283.
6/14/2010 7:34pm:
Rules Committee Resolution H. Res. 1436 Reported to House. Rule provides for consideration of H.R. 5486 and H.R. 5297 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of each bill except for clauses 9 and 10 or rule XXI are waived.
6/15/2010 3:35pm:
Rule H. Res. 1436 passed House.
6/16/2010 10:33am:
Ms. Bean asked unanimous consent that the instruction in the amendment printed in part B of House Report 111-506 relating to page 11, line8, be considered to refer to section 4(d)(2)(A) of the matter proposed to be inserted by the amendment printed in part A of such report, as amended by the amendment in part B of such report. Agreed to without objection.
6/16/2010 10:34am:
Considered under the provisions of rule H. Res. 1436. (consideration: CR H4513-4542; text of measure as reported in House: CR H4520-4529)
6/16/2010 10:34am:
Rule provides for consideration of H.R. 5486 and H.R. 5297 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments

are in order. All points of order against consideration of each bill except for clauses 9 and 10 or rule XXI are waived.

6/16/2010 10:35am:
House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 1436 and Rule XVIII.

6/16/2010 10:35am:
The Speaker designated the Honorable Ed Pastor to act as Chairman of the Committee.

6/16/2010 10:35am:
GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 5297.

6/16/2010 11:29am:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Israel amendment.

6/16/2010 11:33am:
POSTPONED PROCEEDINGS - At the conclusion of debate on the Israel amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Israel demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.

6/16/2010 11:34am:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Nye amendment.

6/16/2010 11:44am:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Minnick amendment.

6/16/2010 11:49am:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Perlmutter amendment.

6/16/2010 11:58am:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Price (GA) amendment.

6/16/2010 12:04pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Al Green (TX) amendment.

6/16/2010 12:16pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Driehaus amendment.

6/16/2010 12:28pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Michaud amendment.

6/16/2010 12:30pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Cao amendment.

6/16/2010 12:39pm:
POSTPONED PROCEEDINGS - At the conclusion of debate on the Cao amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Ms. Jackson Lee (TX) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.

6/16/2010 12:40pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Loretta Sanchez(CA) amendment.

6/16/2010 12:47pm:

DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Cuellar amendment.

6/16/2010 12:53pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Braley amendment.

6/16/2010 12:58pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Loebsack amendment.

6/16/2010 1:03pm:
DEBATE - Pursuant to the provisions of H.Res. 1436, the Committee of the Whole proceeded with 10 minutes of debate on the Al Green (TX) amendment.

6/16/2010 1:09pm:
Ms. Bean moved for the Committee of the Whole to rise.

6/16/2010 1:10pm:
On motion to rise Agreed to by voice vote.

6/16/2010 1:10pm:
Committee of the Whole House on the state of the Union rises leaving H.R. 5297 as unfinished business.

6/17/2010 12:19pm:
Considered as unfinished business. (consideration: CR H4610-4618)

6/17/2010 12:19pm:
The House resolved into Committee of the Whole House on the state of the Union for further consideration.

6/17/2010 12:20pm:
DEBATE - Pursuant to the provisions of H.Res. 1448, the Committee of the Whole House proceeded with 10 minutes of debate on the Schrader amendment.

6/17/2010 12:30pm:
DEBATE - Pursuant to the provisions of H.Res. 1448, the Committee of the Whole proceeded with 10 minutes of debate on the Miller (NC) amendment.

6/17/2010 12:39pm:
POSTPONED PROCEEDINGS - At the conclusion of debate on the Miller (NC) amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the ayes had prevailed. Mr. Miller (NC) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.

6/17/2010 12:39pm:
UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question of adoption of amendments which had been debated earlier and on which further proceedings had been postponed.

6/17/2010 1:24pm:
The House rose from the Committee of the Whole House on the state of the Union to report H.R. 5297.

6/17/2010 1:25pm:
The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union.

6/17/2010 1:26pm:
Mr. Neugebauer moved to recommit with instructions to Financial Services. (consideration: CR H4616; text: CR H4616)

6/17/2010 1:26pm:
DEBATE - The House proceeded with 10 minutes of debate on the Neugebauer motion to recommit with instructions. The instructions contained in the motion seek to report the same back to the House with an amendment to add a new paragraph and subsection pertaining to SIGTARP.

6/17/2010 1:36pm:
The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H4617)
6/17/2010 1:54pm:
On motion to recommit with instructions Failed by recorded vote: 180 - 237 (Roll no. 374).
6/17/2010 2:03pm:
On passage Passed by recorded vote: 241 - 182 (Roll no. 375).
6/17/2010 2:03pm:
Motion to reconsider laid on the table Agreed to without objection.
6/18/2010:
Received in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.
6/21/2010:
Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 435.
6/24/2010:
Motion to proceed to consideration of measure made in Senate. (consideration: CR S5430)
6/24/2010:
Cloture motion on the motion to proceed to the measure presented in Senate. (consideration: CR S5430; text: CR S5430)
6/25/2010:
Motion to proceed to measure considered in Senate. (consideration: CR S5461)
6/29/2010:
Motion to proceed to measure considered in Senate. (consideration: CR S5511-5514)
6/29/2010:
Cloture on the motion to proceed to the measure invoked in Senate by Yea-Nay Vote. 66 - 33. Record Vote Number: 202. (consideration: CR S5514-5515)
6/29/2010:
Motion to proceed to consideration of measure agreed to in Senate by Unanimous Consent.
6/29/2010:
Measure laid before Senate by motion. (consideration: CR S5515-5524)
6/29/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4407 made in Senate. (consideration: CR S5515-5516)
7/19/2010:
Considered by Senate. (consideration: CR S5980-5988)
7/21/2010:
Considered by Senate. (consideration: CR S6072-6073)
7/21/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4407 withdrawn in Senate by Unanimous Consent.
7/21/2010:
Cloture motion on amendment SA 4500 presented in Senate. (consideration: CR S6073; text: CR S6073)
7/21/2010:
Cloture motion on amendment SA 4499 presented in Senate. (consideration: CR S6073; text: CR S6073)
7/21/2010:
First cloture motion on the bill presented in Senate. (consideration: CR S6073; text: CR S6073)
7/21/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report

back forthwith with amendment SA 4504 made in Senate. (consideration: CR S6073; text: CR S6073)

7/22/2010:
Considered by Senate. (consideration: CR S6148-6190)

7/22/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4504 fell when cloture invoked on amendment SA 4500 in Senate.

7/27/2010:
Considered by Senate. (consideration: CR S6285-6286, S6292-6294)

7/27/2010:
First cloture motion on the bill withdrawn by unanimous consent in Senate. (consideration: CR S6293)

7/27/2010:
Second cloture motion on the bill presented in Senate. (consideration: CR S6293; text: CR S6293)

7/27/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4524 made in Senate.

7/28/2010:
Considered by Senate. (consideration: CR S6351-6352, S6354-6356, S6359-6365, S6373-6376, S6381-6383, S6384-6386, S8387-8388)

7/29/2010:
Considered by Senate. (consideration: CR S6460-6476, S6486, S6494-6498)

7/29/2010:
Second cloture motion on the bill withdrawn by unanimous consent in Senate. (consideration: CR S6466-6473)

8/5/2010:
Considered by Senate. (consideration: CR S6972-6974)

8/5/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4524 withdrawn in Senate. (consideration: CR S6972)

8/5/2010:
Third cloture motion on the bill presented in Senate. (consideration: CR S6973; text: CR S6973)

8/5/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4599 made in Senate. (consideration: CR S6974; text: CR S6974)

9/14/2010:
Considered by Senate. (consideration: CR S7052-7065, S7065-7079)

9/14/2010:
Motion by Senator Reid to commit to Senate Committee on Finance with instructions to report back forthwith with amendment SA 4599 fell when cloture invoked on amendment SA 4594 in Senate.

9/15/2010:
Considered by Senate. (consideration: CR S7103-7119, S7119-7126)

9/16/2010:
Considered by Senate. (consideration: CR S7144-7158)

9/16/2010:
Grassley motion to suspend Rule XXII to permit the consideration of amendment SA 4433 made in Senate. (consideration: CR S7149)

9/16/2010:

Hatch motion to suspend Rule XXII to permit the consideration of a motion to commit the bill to the Committee on Finance with instructions made in Senate. (consideration: CR S7149-7150)

9/16/2010:

Grassley motion to suspend Rule XXII to permit the consideration of amendment SA 4433 not agreed to in Senate by Yea-Nay Vote. 41 - 58. Record Vote Number: 234.

9/16/2010:

Hatch motion to suspend Rule XXII to permit a motion to commit to the Committee on Finance with instructions not agreed to by Yea-Nay Vote. 51 - 48. Record Vote Number: 235.

9/16/2010:

Third cloture on the bill invoked in Senate by Yea-Nay Vote. 61 - 38. Record Vote Number: 236. (consideration: CR S7158; text: CR S7158)

9/16/2010:

Passed Senate with an amendment by Yea-Nay Vote. 61 - 38. Record Vote Number: 237.

9/16/2010:

Message on Senate action sent to the House.

9/23/2010 1:32pm:

Ms. Bean moved that the House agree to the Senate amendment. (consideration: CR H6905-6939)

9/23/2010 1:34pm:

DEBATE - Pursuant to the provisions of H.Res. 1640, the House proceeded with one hour of debate on the motion to concur in the Senate amendment to the bill H.R. 5297.

9/23/2010 2:33pm:

The previous question was ordered pursuant to the rule. (consideration: CR H6938)

9/23/2010 3:03pm:

On motion that the House agree to the Senate amendment Agreed to by the Yeas and Nays: 237 - 187 (Roll no. 539). (text as House agreed to Senate amendment: CR H6905-6930)

9/23/2010 3:03pm:

Motion to reconsider laid on the table Agreed to without objection.

9/23/2010:

Cleared for White House.

9/23/2010:

Presented to President.

9/27/2010:

Signed by President.

9/27/2010:

Became Public Law No: 111-240.

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Senator Vitter.

Senator VITTER. Thank you, Mr. Secretary. Thanks for being here.

I want to focus first on the Small Business Lending Fund. You said a few minutes ago every bank that received that money had more capital and was in a better position to lend. But if they traded out that money dollar-for-dollar for TARP money, they did not have more capital, correct?

Secretary GEITHNER. That is a good point, but the SBLF was designed so that the capital they got through the SBLF, even if they used it to replace TARP capital, as Congress intended, it is structured in a way that makes it more likely that they are going to use that capital. That was the purpose of the design feature.

But you know, as you know, we cannot force banks to come get capital, and we cannot force them to lend. What we can do is try to make it more compelling for them to lend.

Senator VITTER. Right, but again, I just want to underscore over half of all the money that went out was used to repay TARP money.

Secretary GEITHNER. That is what we expected.

Chair LANDRIEU. That is the way it was designed.

Senator VITTER. In fact, in dollar terms, that amount did not increase.

Secretary GEITHNER. No, I would not say it that way because, again, that is roughly what we expected at the design phase, no surprise in that.

Senator VITTER. In dollar terms, did that amount; did that $2.2 billion increase capital in the small banking sector?

Secretary GEITHNER. It is a more effective way. It is a more valuable form of capital for the purpose of the Act, which is to expand lending.

Senator VITTER. Okay. One of those folks who supported the program, who took advantage of it, was Heartland Financial USA. Their chief operating officer is quoted in this Wall Street Journal article Senator Snowe has mentioned as saying "It is a bit of a shell game." They took 81.7 million and used every penny to repay TARP money?

Do you disagree with that quote?

Secretary GEITHNER. Well, again, the architects of this bill intended it to be available to repay TARP money for the reasons I said because the capital was designed in a way there was a stronger incentive for lending. So we expected roughly that amount of refinancing. We never claimed otherwise. That was the intent of the architects of the bill. There is no surprise in those numbers.

It still, on its merits, is a very cost effective way to help mitigate some of the credit pressures businesses still face.

Senator VITTER. Well, I understand. I am not suggesting it was a surprise. I am suggesting it has very limited impact when the majority of the money is used to repay TARP.

Another proponent of the bill, the Vice President for Small Business Policy at the Chamber—the Chamber supported the bill—said "It was basically a bailout for 100 plus banks."

Secretary GEITHNER. Well, can I just say in this——

Senator VITTER. Do you disagree with that?

Secretary GEITHNER. The associations and businesses that supported this bill, including the Chamber and the Community Bankers Association, supported this provision, this specific provision saying you can refinance.

Senator VITTER. I am sure they did. I am sure the small banks loved this provision.

Secretary GEITHNER. But I guess you could ask the question this way, why are you concerned about this, because if you look at estimates of the cost to the taxpayer and the return to the taxpayer this is going to look very good against almost any comparable we have had. In fact, I think, Senator, if you hold it up against the SBA, I think you are going to say it is pretty good on return too.

Now you know nothing is certain in life. We have got a tough economy still. We have to see ultimately how it comes out. But I am not sure why you are so concerned about this because, again, the bankers and business people that supported this bill, and the architects in the Congress who created this bill, designed it so that part of it could be used to refinance TARP, not because they wanted to refinance TARP but because they thought it would be a better incentive for lending.

Senator VITTER. Well, let me go to that point of taxpayer return and how it looks. First of all, let me just point out a lot of folks have noted that the small banks were all for this provision. Of course, they were. Yes, absolutely, if they can repay TARP money, if it is cheap money, they were, just like the big banks were all for TARP.

I do not know what that proves. It certainly does not prove on its face that it had a significant impact in the actual small business sector. It did have an impact that the small banks liked.

But let's go to your comment about taxpayer return. When this taxpayer money is used dollar-for-dollar to repay TARP, on the TARP accounting side, is that accounted for in a different way than the banks repaying out of their own funds, TARP money?

Secretary GEITHNER. Of course. When we describe, as we do regularly to Congress, what the overall estimates are of return to the taxpayer for these programs, we take into consideration the net effects of this program vis-a-vis TARP. We do not double-count it. We make it clear in that context.

But again, the——

Senator VITTER. So on the TARP accounting side, that is not counted as repayment of taxpayer dollars.

Secretary GEITHNER. We try to show everybody both numbers in full transparency.

Again, the basic bottom line is these investments you call in, all the programs that allowed banks to come to the Treasury and get capital, overwhelming positive return to the American taxpayer north today of $10 billion in total.

Senator VITTER. So again, I just want to be clear. When you talk about a total number of TARP repayment, this is not included.

Secretary GEITHNER. What we do is we show both numbers. We show the TARP numbers alone, and we footnote, or we account for, and we show a separate number to show what the estimates are. But you will see when we do our next accounting.

Senator VITTER. So it is a footnote. So it is counted, and then you have a footnote.

Secretary GEITHNER. Well, we try to lay it all out, but you know when you see our new numbers after this program. You know, this program just closed on September 28th.

So now we know how many banks came and what they did with it. Now we have exactly the numbers. You will see when we next show it, the full picture. But again, you will see when we show that that the overall return to the American taxpayer of these investments in banks was overwhelmingly positive to a very substantial degree.

Chair LANDRIEU. Thank you, Senator Vitter.

I just want to submit to the record, and we are going to get this clear from the gentleman from the Heartland. You have a quote from him that appeared in the Wall Street Journal. I have a letter with his signature on it saying the exact opposite.

That is what this hearing is for, to get the truth on the record. I am instructing the staff to call this gentleman, and ask—does he want to go by this letter or does he want to go by his quote in the Wall Street paper?

I will give you a copy of the Heartland letter which is supported.

[The information follows:]

MARY L. LANDRIEU, LOUISIANA, CHAIR
OLYMPIA J. SNOWE, MAINE, RANKING MEMBER

CARL LEVIN, MICHIGAN
TOM HARKIN, IOWA
JOHN F. KERRY, MASSACHUSETTS
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MARCO RUBIO, FLORIDA
RAND PAUL, KENTUCKY
KELLY AYOTTE, NEW HAMPSHIRE
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SCOTT P. BROWN, MASSACHUSETTTS
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October 21, 2011

Dear Committee Member:

In our recent hearing, *The Small Business Jobs Act of 2010, One Year Later*, a specific disapproving quote from a Small Business Lending Fund (SBLF) recipient, Heartland Financial from Dubuque, Iowa, was introduced by a Committee Member. The same bank also submitted a letter of support for the SBLF program to me. I would like to clarify this contradiction.

After leaving the hearing, my staff reached out to Heartland Financial to confirm their support for the SBLF program. I would like to submit to you an email from John Schmidt, Executive Vice President and Chief Operating Officer of Heartland Financial, and the subject of the misquotation:

> *It has come to my attention that a misinterpreted comment I made to the Wall Street Journal regarding our participation in the Small Business Lending Fund "SBLF" was used to contradict a letter from Lynn B. Fuller, CEO of Heartland Financial. As you know this letter from Mr. Fuller categorically supports the program.*
>
> *I want to go on record by stating my firm support for the SBLF. It is my strong belief that the SBLF has the capability to spur job growth as it targets small business which is the primary generator of job growth. We were thrilled to be selected to participate in the program and have redoubled our efforts in originating small business and agricultural loans. This has always been part of our focus, but the ability to reduce the dividend rate certainly provides additional incentive.*
>
> *Please accept my apologies for any confusion resulting from the Wall Street Journal Story and know that I believe that the SBLF has a prominent role in the fostering the future growth of our economy.*
>
> *Regards,*
> *John K. Schmidt*

As you can see, Mr. Schmidt and Heartland Financial were misrepresented by the Wall Street Journal and they are in full support of the Small Business Lending Fund. While the Wall Street Journal is an extremely reputable news outlet, mistakes can be made anywhere and it can only benefit our work and that of this Committee if we take the time to confirm statements before introducing it into the Committee Record. I will submit Mr. Schmidt's email to the Record and will make copies available upon request.

Sincerely,

Mary L. Landrieu

Mary L. Landrieu
Chair

Secondly, I want the record to reflect what the truth is. It was not a dollar-for-dollar swap to TARP. Only one-third of the SBLF banks were TARP refinancings. It should be of no shock to anyone that this was done, as we designed SBLF with input from banks.

TARP was primarily a program to bail big banks out of bad investments they made.

This program was designed differently—to help small banks—and while the numbers were not as high as we would have liked, it seems to have worked for the banks that stepped up and managed to use it.

Senator Cantwell.

Senator CANTWELL. Thank you, Madam Chair. Thanks for holding this hearing.

Secretary Geithner, thank you for being here.

Mr. Secretary, could you comment on what you think about Occupy Wall Street?

Secretary GEITHNER. Senator, thanks for asking that question. I have been asked it a lot over the last two weeks, as many of you have, I am sure.

And my general view, if you look at the challenges the country faces today—very high unemployment, a huge increase in inequality, alarming rise in poverty, deep sense of economic insecurity, loss in confidence and faith in public institutions—there is a huge amount of frustration and concern across the country today about the challenges we face, and that is why we are trying to work so hard with the Congress to get more things in place to make the economy stronger and put in place stronger protections over the financial system, heal the damage caused by this crisis. And by any measure, we have a lot more work to do.

Senator CANTWELL. Well, Mr. Secretary, I think a lot of people are frustrated that they think that the big banks basically got access to capital in about 10 seconds and it has taken nearly 10 months for these small businesses to get access through community banks.

So I know in my state the banks that got access to capital have proven that they have increased lending to small businesses. So it was a success.

So people are frustrated still that Main Street cannot get access to capital. So are you for reinstating a program like this to get more capital to small business through community banks?

Secretary GEITHNER. I am a big supporter of these programs. I said that from the beginning. We have been constantly refining them, designing more of them, trying to improve them. And I am completely willing to continue to work with you and your colleagues on new ways to do that, going forward. Absolutely, happy to do that.

Senator CANTWELL. And you would provide some level of transparency about why MOUs were signed between Treasury and the banking regulators on why certain banks were denied access to capital and yet they were not given reasons for that? You would clean up the transparency problems?

Secretary GEITHNER. Let me respond to that basic concern. First, on the question about why did this take so long. Okay? I want to address this because we are all frustrated by the fact it took so long.

We designed a system, and I do not know a different way to do it, that required the bank supervisors to make a judgment to us that they were viable and eligible, and it took them a long time to do that.

Now, one other thing—in the laws of the land, we have legal protections with criminal sanctions for disclosure of confidential supervisory information, and we were prohibited under those laws and by agreements with the banks for sharing information with banks about reasons for denial. But I can tell you today that we have worked out an arrangement with the supervisors, and banks are now getting concrete communications approved by the regulators about the reasons why they did not meet the standards in the law.

But the reason why this took so long was because we were careful and we relied on the regulators to approve applications. And the reason why we were unable immediately to inform institutions about the reasons for denial was because of the criminal sanctions in place under the laws of the land for sharing confidential supervisory information. But I think we fixed that now, and banks are hearing about it now.

Senator CANTWELL. Okay. Well, I just do not even know that you could capture the level of frustration that America feels in the fact that big banks did not jump through any of those hoops and yet got access to capital. And the small banks who are seeking to loan to businesses have been frustrated with not knowing answers, not having their questions about the program out there, just a continued line of frustration, nonresponsiveness. So it is very, very frustrating.

I wanted to clear up one last point is that you stated the reasons of things that the Administration is looking at doing to try to change this economic equation, and you talk about a demand for goods and services. That was your number one issue.

Do you think, Mr. Secretary, there are small businesses out there today that have demand?

Secretary GEITHNER. Well, you know, the economy now is growing. Most economists think now roughly 2 percent, maybe a little stronger, a little weaker. And 2 percent growth is not strong enough to bring the unemployment rate down.

Now some businesses are growing much faster than that. Some businesses are growing less than that. If you are a small business in the construction industry or in retail, growth is still very weak for you. But those are the averages, and they are just not strong enough.

Senator CANTWELL. Well, I would beg to differ with you on this point, that there is demand out there by some small businesses. Okay? It may not be as voluminous as, you know, the resources given to the large banks, but these small businesses can create jobs. They need access to capital.

Secretary GEITHNER. Well, I agree with you. I agree completely with you on that.

Senator CANTWELL. Okay.

Secretary GEITHNER. A hundred percent agree with you on that.

Senator CANTWELL. So I would hope that the Administration would instead of just saying we need to create demand would say we also have to give capital to Main Street where demand has been seen and get those businesses growing because they are 75 percent of the job creation in America.

Secretary GEITHNER. A hundred percent agree with you. Completely agree with you.

Senator CANTWELL. All right.

Thank you, Madam Chair.

Chair LANDRIEU. Okay. Thank you.

Senator Paul.

Senator PAUL. Thank you, Secretary Geithner, for coming.

You mentioned in your remarks that lowering marginal tax rates is good for economic growth, and I could not agree more. Under Kennedy and Reagan, when we significantly lowered marginal tax rates, we did significantly lower unemployment. Unemployment seems to be rising under the current Administration's policies.

Your statement though that saying that lowering rates would encourage economic growth seems to conflict a little bit with the policy of your Administration and the current majority party in the Senate. For one, the President's budget would have increased marginal tax rates. Second, the Democrat jobs plan, a variation of your jobs plan, would also increase marginal tax rates.

I do not know if you have had a chance to read the Republican jobs plan yet, but the Republican jobs plan would actually lower tax rates and simplify the tax code by getting rid of loopholes and evening out the tax code. So I am wondering if I can assume today that your testimony is here today in support of the Republican jobs plan.

Secretary GEITHNER. No risk of that. Sorry to disappoint you.

But I will tell you that on the broad strategy of how you think about fundamental tax reform we are going to disagree on fundamental pieces of it, but on the general strategy of lowering rates by broadening the base and creating better incentives to invest that is what will guide our basic strategy.

Senator PAUL. It is part of our plan. If you will go back and tell the President today my office is open, I am happy to meet with him anytime today to go over this. It is part of the Republican plan—lower rates, broaden the base, get rid of loopholes.

What do you think caused the housing crisis, and I guess to begin with, what do you think caused the housing bubble from 2001 to 2007?

Secretary GEITHNER. Oh, without being too technical about it, we had a long period of very low rates, and we had a terrible erosion in underwriting standards. And those two things together caused a huge overinvestment in housing, and Americans were allowed to borrow a huge amount relative to income in their housing value. And when the storm hit, you know, things came crashing.

Senator PAUL. I agree. Who do you think in the country had more influence over interest rates than anybody else? Can you think of a body, maybe in New York?

Secretary GEITHNER. You want me just to——

Senator PAUL. It sort of has a lot of bankers involved with it. It is a central bank.

Secretary GEITHNER. You want me to say the New York Federal Reserve?

Senator PAUL. Yes, maybe. Maybe the New York Fed. Maybe the Open Market Committee.

Secretary GEITHNER. You are right that I was Vice Chairman of FOMC, and I was President of the New York Fed for a five-year period, and I started in the Fall of 2003.

Senator PAUL. But I guess here is my point, and I hate to interrupt you, but I have got a real short time. You know, interest rates I see as sort of the price of money, and they should fluctuate somewhat based on the demand for the money.

If government controls the interest rates and you obscure the market forces, as an economy heats up, people are bidding for money, the price of the money goes up, and you get a blockage effect and a slowing down of the economy.

If you do not do that, if interest rates are not allowed to rise, the economy keeps going, but it is an illusion. That illusion is a bubble, and it bursts. That is bad policy.

But that is still what we are in today is that we still want to have no interest rates and we want to spur growth out of nothing. We want to create this illusion, but the illusion is gone. That is why you cannot get the economy growing again.

Secretary GEITHNER. Well, do you want loan rates to be higher today?

Senator PAUL. I want the market to control what rates are. The Soviet Union failed because they could not determine the price of bread. We are in a failure as a country because now we are trying to determine the price of money and we should not have individual central bankers determining the price of money because when they do they make mistakes because they are fallible and they are human.

And as Hayek said, it is this pretense of knowledge that you think are—and I do not mean this as an insult to you, but people think they are smart enough somehow to tell us what the price of money should be.

Secretary GEITHNER. You and I may have more in common than you fear, but on this basic question the Fed does not have the ability to affect all interest rates across the economy. What they only do is affect—but I am commenting about monetary policy now which I am not supposed to do—the short-term interest rate.

So they cannot control the long rate. They can have some effect in terms of crisis about those basic things, but they cannot do what you fear they are trying to do.

Senator PAUL. So why do you think interest rates were low? It was a market force that kept interest rates low for seven or eight years and it had nothing to do with the Federal Reserve Open Market Committee?

Secretary GEITHNER. Well, again, I am commenting on monetary policy which I generally try not to do as Secretary of the Treasury, just to protect the independence of the Fed, but—and this will take us a longer period of time.

But I think most economists who look at back over that period would say that because in 2001 and 2002 we had a recession, rates were low coming out of that recession. And as you know, you had a huge set of global forces that caused a huge amount of investment in the United States over that period of time, and that helped keep long-term rates over that period of time.

But as I said, the reason why we had that boom in housing and elsewhere was because we had a long period of low rates and we had a terrible erosion in underwriting centers across the financial system, complete breakdown of basic controls on risk and safeguards, and those two things together were very damaging.

Senator PAUL. I want to thank you for coming and congratulate you for inadvertently, or maybe advertently, supporting part of the Republican jobs plan. Thank you.

Secretary GEITHNER. I do not think there is much in there I would support except I agree that fundamental tax reform is coming.

Senator PAUL. Lowering marginal tax rates, that is what we are all about. Lowering, simplifying, getting rid of loopholes—it is in the Republican jobs plan.

We can agree to some of your plan. You guys can agree to some of our plan. I think we could move forward, but we have got to talk.

Secretary GEITHNER. You are going to have to be willing to raise some revenues though because you cannot balance the budget, you cannot get the budget back under control, unless you are willing to as part of tax reform to see some modest increase in revenues.

Now of course, we may disagree on that and who should bear that burden, but we think the most fortunate Americans can afford to bear that burden.

Senator PAUL. Well, revenue may well go up with lower rates, with less loopholes and less tax credits.

Chair LANDRIEU. Time has expired. Thank you.

Senator Hagan and then Senator Brown.

Senator HAGAN. Thank you, Madam Chairman. I, too, appreciate your holding this hearing.

And Secretary Geithner, thanks for participating.

I know we are here to talk about the Small Business Lending Fund.

Chair LANDRIEU. Thank you, Senator.

Senator HAGAN. In North Carolina, I know that 8 banks have received over $155 million in capital to lend to small business. So there is no doubt that is helpful and positive, but I think that the hopes for this program were much, much higher than that. And while those banks that were approved to participate, obviously, they are ultimately pleased with the program and they have started lending.

More were also frustrated with the communications from the department, and I heard from community banks that said that after they applied to the program they did not hear back for weeks. And I have also heard from others that there was little explanation of why they were not approved.

So if you can comment on that, was there a standardized process for the department to respond to applicants about the Small Lending Fund application?

Was there any formal way to the banks to appeal or to seek some sort of review from the Treasury's decision not to approve their application?

And I think the timing of it was obviously very late in the game, or in the process, and that there has been an incredible amount of frustration on their part.

Secretary GEITHNER. I share their frustration, and let me just go through it.

First, why did it take so long to approve applications, because we put in place, to protect the taxpayer resources, a system where we relied on the primary supervisors and a committee of bank supervisors to make the judgment for us, primarily about whether banks were viable enough to benefit from this program.

Now that took them some time. It took up more time than they estimated. It took more time than we hoped.

Senator HAGAN. Nine months, was it?

Secretary GEITHNER. Well, it took nine months to legislate the bill, and we did not get the first approved applications, or recommendations—they were not called recommendations, but approvals—until really early June. So the time frame between when we started to get approvals from the regulators to when we actually approved them was actually very, very short.

I would have loved to accelerate that process, but we were not in a position to design a program where we made the individual judgments for how to look at applications from hundreds and hundreds of small community banks. We had to rely on the primary supervisors to do that.

The second frustration people raised is why did you not tell us we were not eligible. As I said earlier in response to Senator Cantwell's question, we have legal protections with criminal penalties on sharing of confidential information in this country for lots of good reasons, to protect the system as a whole. So we were not in a position as the Treasury to tell banks why.

And it has taken us now four weeks to work out with the bank supervisors a system whereby we could let them know, and that is happening right now as we speak. We have finally approved a way consistent with the law and protecting the system to let them understand why they did not meet the requirements in the program. I wish it could have been different, but it is because we are being careful with the taxpayers' resources.

Now again, we cannot force banks to come apply for credit, and we cannot lower the eligibility standards to the point where we risk putting an undue level of risk, of taxpayer money exposed to risk. We are taking risk in this program as it is, but we are trying to be careful because we want to make sure it has the maximum possible effect and we want to preserve the capacity for you on this Committee and your colleagues in the Senate to look for ways to support these programs in the future.

And if we had taken—if we got that balance wrong in this program, we would have undermined dramatically the support for these programs in the future.

Senator HAGAN. But there is no opportunity to appeal from a decision or from the information that might have been interpreted in a different way.

Secretary GEITHNER. That is not quite true, and let me describe the process that applies. You apply. Treasury gives your application to the primary supervisor. The primary supervisor looks at that application.

Senator HAGAN. And the primary supervisor is?

Secretary GEITHNER. In this case, it would be the Federal Reserve or the OCC or the FDIC. They pass—they provide an assessment of that application to a committee of supervisors. So we want to have checks and balances so that if an individual supervisor were being too tough or too soft there is some check and balance in that context.

Now that allowed for a pretty careful review, and where supervisors had new information from their banks they were able to reflect that in the process.

Now I do not know how we could design a process where they could have appealed to somebody besides me a judgment by the supervisor. And if you were in my shoes, I do not think you would have wanted to be in a position where we had to substitute our judgment for a judgment of not just an individual supervisor but a committee of their peers, again, to make sure that they were not being either too tough or too soft in evaluating the merits of the application.

But Senator, I agree with your frustration, and we share it, about the fact that only banks only applied for one-third of the money and it took us this long to put in place these safeguards and approve. But once we started getting assessments from the regulators, we actually moved very quickly.

Senator HAGAN. And is there any opportunity, since only $4 billion was allocated, to apply for more?

Secretary GEITHNER. Well, that is in the hands of the Congress, not without changes in the law.

Senator HAGAN. I guess what—so the fact that it took so long that now the timing is the way it is now, that there is sort of Catch 22.

Secretary GEITHNER. No, I do not think that had any effect on—I think banks had a long time, as you can tell. Too long, frankly, in my view. They had a long time to get exposure to this program and decide whether they wanted to apply.

And you know, it is possible if you were to do this again or extend the time frame, you might see a few more. But there was a huge national effort by members of the Congress and by the Administration to get the word, and I do not think it was a secret that this was out there as a program.

Senator HAGAN. I guess I was meaning the people who did not receive the funding, the entities.

Secretary GEITHNER. Well, again——

Senator HAGAN. Go ahead. Just——

Secretary GEITHNER. It is true, you know, roughly half of the banks who applied did not meet the standards in the program, and it is understandable that they are frustrated and concerned about that. It is probably not fundamentally a surprise to them because they have relations with their supervisors and it was the supervisors' judgment to determine whether they were going to be eligible or not.

And I do not know realistically whether more time would have increased the number that have been approved for that context because we cannot change the fundamentals of their eligibility.

Chair LANDRIEU. Thank you, Senator.

Senator HAGAN. Thank you, Madam Chairman.

Chair LANDRIEU. Thank you.

Senator Brown and then Senator Shaheen, Rubio, Pryor and Moran.

Senator BROWN. Thank you, Madam Chair, for holding this hearing, and I want to thank you also for correcting the record. Some of the misinformation usually does not start the cooperation going the right way. So I appreciate your correcting the record that it was weeks, not a year, to push this through.

And I remember this very clearly. We checked our files, checked on this. I know that there was basically guidance from Treasury saying hey, 30 billion is the number. We are anticipating about 7,000 banks coming forward. Nine hundred and thirty applied, but only a fraction were approved.

In listening to the conversation, you asked Senator Vitter, well, why is he concerned. He is concerned because basically the banks that qualified were able to use additional money to refinance their TARP debt and very little actually went out to Main Street, as Senator Cantwell is concerned.

With the big banks, you know, it was really a slam dunk, pretty easily done, and they got the money. They are okay.

But with the smaller banks, and ultimately the Main Street borrower, there is nothing. It is very little money out there in the street.

Secretary GEITHNER. Well, Senator, $15.5 billion in capital total over these programs for banks since the Fall of 2008, when it went out to community banks across the country to, as I said, more than 700 banks.

Now you are slightly mistaken in your numbers you said. This was designed to be up to $30 billion in potential.

Senator BROWN. Right.

Secretary GEITHNER. That was good. That was abundance of caution. But again, we cannot force the banks to apply. Banks only applied for a third of that money.

Senator BROWN. Well, one of the reasons the banks did not apply is because there was a tremendous amount of red tape, from what we have heard, in many banks and actually applying, and then the declination process and not having any idea why. And I know you have addressed that pretty thoroughly.

Secretary GEITHNER. But Senator, again, I know I can say this one comment. If you were in my shoes, okay, you would want to be very careful that we are using the taxpayers' money carefully in this context.

Judging the health of a bank is a complicated judgment. We were not in a position to do that. We had to rely on the supervisors to do that. You would have done the same if you were in my shoes.

Now the fact that not all banks were eligible should be no surprise because, again, we have an economy, still facing a really tough economy, coming out of the worst financial crisis since the Great Depression. We have 7,000 community banks across the country, and a lot of those banks are still under pressure and were not going to meet the test of eligibility. But the reason why you have had a smaller yield than expected and the reason why this took some time is because we were careful to protect the taxpayers' resources.

Senator BROWN. I know. You said that. Thank you.

And with all due respect, I do not think you could guess what I would do if I was in your shoes.

Secretary GEITHNER. I did not mean to say I could.

Senator BROWN. And because as I travel around my State and the country, contrary to what you said earlier, the number one thing that I find, yes, demand is a problem, but it is the lack of regulatory certainty intact for every business in Massachusetts. That is the number one thing going away.

That is this wet blanket over their efforts to create jobs because in the last year we have had 488—sorry, last couple of months—488 regulations seemed significant by the Administration, cost of $80.7 billion imposed by new rules for the 64,000 pages of new regulations in the Federal Register, 88.9 million hours of annual paperwork burden.

I tell you what; the number one thing that I hear not only from banks, as a result of passing the new fin reg bill, but individuals and businesses, is the lack of certainty and stability. They do not know what is next, and they are very scared.

And as a result, the banks, they do not want to go in and take advantage of these programs because of the over-regulation. The people who are borrowing do not want to go borrow because of the strings attached to it.

There is a complete disconnect really between, as Senator Cantwell said, between getting the money out the door in a quick and effective and timely manner.

Secretary GEITHNER. Senator, can I just offer two contrary explanations——

Senator BROWN. Sure.

Secretary GEITHNER [continuing]. To your concern about the regulators?

Again, I think if you look at the evidence, I will just cite a couple things. One is if you look at the body of regulation proposed by this Administration compared to the average in the Bush Administration, it is roughly in line—no material increase in intensity of rules proposed relative to the standard in the Bush Administration. So I think it is unfair to say or to suggest there have been dramatic, sweeping changes that could account for what is weaker growth across the country.

Now I know banks, businesses always complain about regulation. They want less of it. They want lower taxes.

Senator BROWN. No, they do not want less. They just want regulations that they can understand——

Secretary GEITHNER. Well, usually——

Senator BROWN [continuing]. That are streamlined and consolidated and that are not overlapping.

Secretary GEITHNER. Usually, they want less too or they want more favorable ones. Nothing, no mystery——

Senator BROWN. No, they just want to know what the game plan is. They want to know that they can walk in the door, get a sheet of paper, whether they are dealing with the FDA, the EPA. They want to understand what the process is.

And I do not want—I only have time for one more question. It is something that has been really bugging me and many other people in businesses in Massachusetts. It is a little off, but it is the 3 percent withholding tax issue.

I mean you have put off—you have extended the deadline. Clearly, it costs more to implement than we are ultimately going to get back. So why is not the President, or you through recommending to him—why do you not just get rid of it so we can move on to something more important and not have businesses—once again, face that uncertainty, that lack of predictability.

Here they are, all the people that do work with the government, saying oh, geez, we are not going to hire because we have got to pay 3 percent withholding come January 1st.

Secretary GEITHNER. Well, Senator, we are willing to work with you and any of your colleagues on any idea that is going to help strengthen the economy. Happy to do that. Again, happy to take any ideas.

We have a very substantial body of proposals before the Senate today, and they are a pretty powerful set of incentives for growth and job creation. If there are other ideas that would help reinforce that, we are open to them.

Senator BROWN. Yes, there is plenty of ideas we have all made in the Gang of Six, in the Simpson-Bowles. Everybody has made them, but quite frankly, there is no Republican or Democrat bill that is going to pass. It needs to be a bipartisan, bicameral bill.

And to have people—you know, the Administration and you—going around the country saying, oh, pass this bill, pass this bill, with all due respect, it is not going to pass unless we work together to get it done.

And I appreciate your saying that earlier, but in reality we need to take the best of both bills, whether the repatriation issue which I know there, Senator Hagan is talking regularly about, whether you are talking about the 3 percent issue and employer tax deductions for employers and employees, the Hire a Hero. Those are things we all agree on. Why can we not just get them done, with your leadership and the President talking about those good things?

Secretary GEITHNER. Well, I agree with you. You cannot legislate now without Republicans and Democrats. There is no doubt. You have to find bipartisan consensus on that, and I see that is a challenge in such a divided country.

But the proposals we put before the Senate on the tax side, on the infrastructure side are proposals that have had overwhelming bipartisan support in the past. Now it is not the answer to all our problems, as I have said. There are things we can do beyond that, but it is a pretty good start.

Senator BROWN. You have to start somewhere. Yes, you have got to start somewhere.

Chair LANDRIEU. Thank you. Thank you, Senator Brown.

I just want to remind this Committee, and I know everyone is frustrated about regulatory reform, but we do not have oversight of regulatory reform. The Homeland Security Committee does. We are going to do our part. But I thank the Secretary for his patience, and I thank Senator Brown for expressing his views.

Senator Shaheen.

Senator SHAHEEN. Thank you, Madam Chair, and thank you to you and Ranking Member Snowe for holding the hearing and to Secretary Geithner for being here.

Like my colleagues on this Committee, and you have expressed this, I share the frustration for how long it has taken to get the Small Business Lending Fund up and running, the disappointment with the number of banks in New Hampshire that have participated. But having said that, I support the program. I think it means that there is now $9 billion out there to lend to small business that would not have been there before, and so I do think it has helped the situation.

I continue to hear from small businesses in New Hampshire not so much that banks do not have money to lend but it is more that they have been reluctant to take risks. And when I talk to some of my friends in the banking community, their response is they are reluctant to take those risks because of what they are hearing from the regulators. So I wonder if you could comment on that and the challenge that presents as we are trying to get this lending going.

Secretary GEITHNER. Well, I think you are exactly right, and I think if you talk to banks across the country they—let's talk about the small banks. What they still is that they feel under tremendous pressure from their examiners to tighten lending standards more than they think is necessary.

And if you look at lending standards, they are much looser than they were 6 months ago, 12 months ago, 18 months ago, 2 years ago. But banks across the country still say that they think their examiners are being a little too tough on them.

It is very hard to know whether that is justified or not, but you are right to say that they say that. And they cite that more than—the banks do—than the concerns with the forthcoming reforms because most of the reforms in Dodd-Frank really do not touch community banks. They mostly touch the big banks, as they should.

So you are right about that concern.

I know the Chairman of the Fed and the head of the OCC and the Chairman of the FDIC have been looking at ways. They put out a series of guidance to examiners to try to temper that risk of excess caution, but I suspect there is more to do.

You know what always happens in the aftermath of a big credit boom is that standards were too loose and then they overcorrect. The market can overcorrect sometimes, and sometimes supervisors can reinforce that. And we want to work against that. That is partly why these capital programs are so important—because if banks have capital then their supervisor is going to be much more comfortable with them in taking the risks they can take.

Senator SHAHEEN. The other issue, and this is a little off-topic, so—but I think it is so important to the underlying concern that we all have, which is how we get this economy moving again, and that is we still have a housing market that is not functioning. The number one constituent concern that I have had since I got elected has been hearing from people in New Hampshire who are facing foreclosure, and the difficulty not with our community banks but with the big banks that are still not willing in any real way to engage with homeowners on modifications and looking at how we can keep people in their homes.

Now some people are not able to do that for a variety of reasons, but there are a lot of people who are. And I find that when we have gotten involved with them that very often we can get some of those big banks' attention and they are willing to look at the mortgages and make modifications. But it should not take calling your Congressman's or your Senator's office to do that, and I just wonder if the Administration has any other efforts or initiatives that you expect to take to help address this situation because we need to get somebody's attention to this.

Secretary GEITHNER. I completely agree with you. It is still terrible out there. And there is no other way to say it than the major servicers who, I think, built this mortgage business are still doing an unacceptably bad job at meeting the needs of their customers.

Now if you look at the total number of modifications that have happened across the economy over the last two and a half years, it is between 3 and 4 million. It is a pretty reasonable number of people that are getting the advantage of much lower interest rates are now in their homes today because of these broad programs—the ones we support directly and the ones we support indirectly—but there are still millions more Americans out there who are at risk of losing their home, that if given a chance they would be able to keep their house, at least for a period of time. So we want to do as much as we can to reach as many people as we can.

But we are also—as you have been reading and as the President said in his statement to the Congress two months ago, we are in the process of working with the FHFA, which is the oversight body of Fannie and Freddie, to put in place a program that will allow many more Americans to refinance, to take advantage of lower interest rates, even if they have very high loan-to-value ratios and are even somewhat underwater. And our hope is in the coming days we are going to be able to lay out the details. Ed DeMarco will lay out the details of a program to make that possible.

That is one thing that would help to because if you can lower your interest rate you can lower your monthly payment, make it much more likely your house is affordable, and that is a good complement to these mortgage modification programs that have been disappointing to us as well but have still directly or indirectly reached three to four million Americans.

Senator SHAHEEN. Thank you.

Chair LANDRIEU. Thank you.

Senator RUBIO. Thank you, Madam Chair.

Good morning, Mr. Secretary.

All these issues that we are talking about, whether it is the housing crisis, the lack of revenue to local, State and Federal governments, at the root of all this is joblessness. Is that right?

Secretary GEITHNER. And weak economic growth, I would say, because you do not have jobs without growth. And if the economy is not growing fast enough it puts an——

Senator RUBIO. But ultimately, not enough people are working.

Secretary GEITHNER. That is right.

Senator RUBIO. I mean if someone does not have a job it is hard for them to make their mortgage payment.

So I think you would agree, and I think most of us would, that in this country if you went out and left this building and asked people what is the number one issue facing our country, they would say the lack of jobs or jobs that do not pay what they used to, that the employment issues are really at the root of everything we are facing. You would agree?

Secretary GEITHNER. I would say for the 90 percent of Americans that have a job they would say it is the fear they lose their job and their income is not going to go up.

Senator RUBIO. Jobs.

Secretary GEITHNER. If you do not have job, your main concern is are you going to be able to get a job soon enough.

Senator RUBIO. Right, jobs, so the issue of jobs then.

Let me ask you. I think you would agree that it is going to be very difficult, quite frankly, impossible to turn around the joblessness issue, the 9.2 percent or the 9.1 percent unemployment rate in the States, without robust, significant and sustained private sector growth.

Secretary GEITHNER. Absolutely.

Senator RUBIO. So any jobs plan or any plan, whether it is this bill we are talking about today or the one the President is proposing, any bill that purports to be a jobs plan has to be judged by—primarily has to be looked by—what effect it will have on private sector behavior and private sector job creation.

Secretary GEITHNER. I agree with that although there is a very good case, as a complement to that but not as a substitute, for public investments, with two basic effects. One is to help rebuild America's infrastructure. That can help leverage private capital too.

Senator RUBIO. Sure.

Secretary GEITHNER. And the other is to reduce some of the pressure on States and cities across the country to reduce first responders and teachers further.

With that exception, overwhelmingly growth is going to come from the private sector, and our job is to improve the conditions for——

Senator RUBIO. But even like infrastructure, whether it is human capital, all of it is designed to what government can do to make it easier——

Secretary GEITHNER. That is right.

Senator RUBIO [continuing]. For the private sector to create jobs and grow.

Secretary GEITHNER. That is right.

Senator RUBIO. As you aware, both the President's plan and Senator Reid's plan call for a so-called surtax on millionaires, which is to generate revenue. Obviously, you are aware that surtax would hit about 30-some odd percent of small business income.

Secretary GEITHNER. No, that is not—well, let me say it slightly differently. Under the tax proposals we have suggested the Congress enact, it is true that we have suggested to allow the marginal tax rates on the top 2 percent of Americans, which affect about 3 percent of small businesses, to revert back to the level they were before the Bush Administration. In addition to that, we have proposed to raise the burden further on the most fortunate Americans.

But I think if you look at the growth effects of that they are likely to be very, very small, and what we are all trying to do is balance very difficult pressures. We want to do more to help the economy now, and we want to make sure we are restoring fiscal responsibility.

Senator RUBIO. But if you add—you talked about the marginal rates. I mean the marginal rates are going to up in 2013, the top rate, about 35 to 39.6 percent. Right? And then, you are going to add under the President's plan, was it a 5.6 surtax? So that would put the top marginal rate at 45.2.

Secretary GEITHNER. For a very tiny fraction of Americans though.

Senator RUBIO. But at the top marginal rate, okay.

And then, you add to that an addition I guess the health care law has, but let's just leave that one out and say the top rate would be about 45.

And your testimony is that you think the top marginal rate being at 45 when you add the surtax would have no impact on job creation?

Secretary GEITHNER. Very, very—very, very—I mean economists, you know, do not agree on anything. But if you ask economists what they think, it depends on where they sit in the political spectrum.

But I think if you look at CBO's judgment, look at them as an independent arbiter of the economics for the Congress, you will find that that set of tax proposals would have very, very small impact on growth. You have to look at them relative to the alternatives.

And if you leave the economy with unsustainable fiscal deficits as far as the eye can see, or if you are cutting spending further to support those low tax rates for upper income Americans, that would, I think, over time be more damaging to economic growth and less fair.

Senator RUBIO. Well, I think CBO is great and economists are great.

What about the people that create jobs? For example, NFIB, the National Federation of Independent Business says the surtax is a job killer. Are they wrong?

Secretary GEITHNER. Yes, because what they are suggesting is that—again, you know we have got difficult choices, and we have to govern and make sure——

Senator RUBIO. But their opinion of the surtax—the manufacturers say the same thing, the National Association of Manufacturers says it is a job killer. They are wrong as well?

Secretary GEITHNER. Any business that faces a proposal from Congress to raise taxes will oppose that proposal and say it will kill jobs.

Senator RUBIO. Right.

Secretary GEITHNER. That is their job, and that is what the job of the association is.

Senator RUBIO. What about this? This is a quote from the President. He said the last thing you want to do is raise taxes in the middle of a recession because that would just suck up. That would take more demand out of the economy and put business in a further hole.

Secretary GEITHNER. That is right.

Senator RUBIO. What has changed?

Secretary GEITHNER. One of the reasons why this Jobs Act before Congress is so important is because if you do not act on these proposals then taxes will go up not in 2013; they will go up in the end of 2011. So in three months——

Senator RUBIO. Yes, but the President stood behind the concept that raising taxes in the middle of a recession hurts business and hurts job creation.

Secretary GEITHNER. No, but what the President has proposed——

Senator RUBIO. I have the quote. So what has changed since he said that?

Secretary GEITHNER. Good question, but let me give you—give me a chance to respond.

The proposals before the Congress today would lower taxes on all Americans that have a job and virtually all businesses across the country. If you do not enact those proposals, taxes will be higher in the beginning of 2012 than they otherwise would be. Now the proposals we made to raise taxes would only take effect at the end of 2012, and they would only apply to a tiny fraction of Americans.

Now we are open to other ways to think about how we make sure we pay for things governments have to do, but we are not going to be able to dig our way out of these deficits without thinking about tax changes that raise revenue over time.

Senator RUBIO. Well, two quick things, and I am over time.

Chair LANDRIEU. One more question.

Senator RUBIO. This statement that the President made and when he made it was made in the context of an interview where he was bragging about the fact we were not raising taxes on anybody.

Secretary GEITHNER. Well, we have lowered taxes. We have lowered taxes for everybody and proposing lowering them further.

Senator RUBIO. But he made that statement in the context of we are not raising taxes on anybody. What has changed?

And that is what he was bragging about when he said this.

Secretary GEITHNER. No.

Senator RUBIO. When he said this, the unemployment rate was at 9.7. Now it is at 9.1. So are we now doing so much better economically that we can afford tax increases—

Secretary GEITHNER. No. It is a very tough economy, and I would differ not at all from how you characterize how hard this economy is right now, no difference. The difference is what should we do about it. That is what we are debating.

The President has always proposed, and I would fully support, that at the end of 2012 we allow what are pretty modest changes that apply to a tiny fraction of Americans to go into effect because without that you are going to ask me to go out and borrow a trillion dollars over 10 years to finance unstable tax rates, which I cannot do. So that is why we proposed that.

But the proposed——

Senator RUBIO. The bottom line is the surcharge will have no negative impact on job creation. Is that your testimony?

Secretary GEITHNER. No material impact, and you have to look at it relative to the alternatives. If you do not, through tax reform, figure out ways to get modest amounts of additional revenue through the most fortunate Americans, then you are either going to confine us to unsustainable deficits for a long period of time, which will hurt growth, or you are going to ask us to cut spending in ways that would do more damage to the economy. That is our judgment.

Chair LANDRIEU. I am sorry. This line of questioning has to be over. I have been very, very liberal and given a lot of latitude. This hearing is about the Small Business Lending Program; however, this is all important, and I thank Senator Rubio.

As a supporter of raising the surcharge I want to get one thing straight for the record. I do not—and the members of the Senate that are supporting raising taxes on families or individuals making over a million dollars is not the same, Senator, as raising taxes on millionaires. Millionaires are people that have a million dollars worth of assets. Many people have a million dollars worth of assets. Their income is only $100,000 or $200,000 or $50,000.

It is not millionaires. It is individuals and families that have income of over a million dollars. I just want to get that straight for the record.

I think it is important not to confuse the two because many, many Americans are millionaires. Many. And many of them have made their own millions. Contrary to belief, they have not inherited it, as you and I know. We represent a lot of people who, through hard work, have assets over a million dollars.

One of the proposals is to raise taxes on income over a million dollars. The marginal rate at 45 percent, you could argue that, but it is a portion over the first million. So the first million, they pay a certain rate; over a million, they would pay a second rate.

Is that your understanding?

Senator RUBIO. Yes. I just want to be clear that the millionaire's tax is not my terminology. It is what I have heard the President say—millionaires and billionaires. I did not make up the slogan.

Chair LANDRIEU. Well, the President has a different view. Maybe you have a different view. But for those of us supporting the tax, the one I am speaking about, it is not a tax on millionaires.

Senator RUBIO. No. I understand. I just——

Chair LANDRIEU. It is actually a tax on income over a million, and I just want to get that straight.

Secretary GEITHNER. Could I add one thing on this, Madam Chair?

Senator SNOWE. Oh, go ahead.

Chair LANDRIEU. Okay, I have one more Senator, and then——

Senator SNOWE. I just wanted to add something to what you said——

Chair LANDRIEU. To what I said?

Senator SNOWE [continuing]. But I will let him finish, to what you said.

Chair LANDRIEU. Okay, go ahead.

Secretary GEITHNER. Can I just offer one other way to think about this, Senator?

If you want to keep those tax rates low, where they are today, for the most fortunate 1 or 2 percent of Americans, then you either have to ask me to go out and borrow a trillion dollars over 10 years to finance it, which I cannot do, or you have to figure out a way to find a trillion dollars in savings from Medicare and Medicaid to do it, unless you want to assume peace breaks out around the world. It is just not—you know, you have to make choices in this context.

We do not relish the prospect of letting those tax cuts expire. We do not like the choice we have to face by reducing tax expenditures for the top 1 or 2 percent of Americans. But we are looking at choices about how to restore fiscal sustainability and still preserve core functions of government. That is the tradeoff we face.

Senator RUBIO. Well, I am not arguing for protecting anybody. I just do not want to support anything that will hurt job creation.

Chair LANDRIEU. Okay.

Senator RUBIO. It is not about protecting anybody. This is about not doing anything that would hurt job creation.

Chair LANDRIEU. Okay. Thank you so much.

Senator Moran.

Senator MORAN. Madam Chairman, thank you.

Mr. Secretary, thank you for being here.

I want to follow up on Senator Hagan's, at least initially, line of questioning. She generally addressed what I wanted to address in regard to the Small Business Lending Program, the inability for bankers to know the reason for the outcome.

I just would tell you, Mr. Secretary, that at least in visiting with our bankers they were told by their regulators, their primary regulators, they qualified, that their application would be supported, and the regulators then—when the denial occurred, you were the one delivering the denial, not the regulator, and they could not get any answers from the folks who told them that they were going to receive these funds.

My understanding as of this morning is that you have—you, the Treasury Department has—now notified those who were rejected to have an opportunity now to sit down and have a conversation with a person. I assume at Treasury, but maybe it is a regulator, to explain the denial.

And I suppose the other complicating factor is that at the stage at which the denial occurred, so close to the end of the program, that there was no effective way to appeal even if you could have sat down to talk to your regulator and say what did I do wrong, let me tell you what we did differently, or you do not have the facts right. At this point, it is just too late because the statutory conclusion of the program.

Am I missing something?

Secretary GEITHNER. No. I think you have it basically right, and you are right that as of today we are informing under communications approved by the primary supervisor the reasons why banks were denied.

But let me just come back to the basic safeguards. Again, we did not rely just on the judgment of the primary supervisor, bank supervisor. We relied on the judgment of a committee of their peers because we wanted to protect banks from the risks that individual supervisors were too tough or too soft.

And you know, the balance is not perfect, but you know we were trying to be careful, and I think we got the balance broadly as good as we could have.

Senator MORAN. I want to—I have a couple of other questions semi-related to the topic of the day, and I will not wander as far as my other colleagues have gone.

The President said something about the Consumer Financial Protection Bureau that caught my attention and was troublesome to me in regard to if the CFPB was in existence Bank of America would not have been able to raise the charges, raise the charges upon its customers, as has been so prevalent in the news in recent weeks. Is there something in the Consumer Protection Financial Bureau that allows a regulator to make a determination in regard to the fees charged by a bank?

Secretary GEITHNER. I draw your attention carefully to the statements that the CFPB, the Consumer Financial Protection Bureau, made about that basic issue, and let me tell you what our objectives are and what the President's objectives are.

Again, we want to take a system where there was terrible protection for consumers, very uneven, poorly enforced, people very vulnerable to fraud and abuse, and try to make sure that they have a much better understanding about what they are paying for financial services, what is a credit or a payment service, and that requires much more transparency and simplicity in their basic fees. And we are making some progress in that direction, but we have got a ways to go.

So the basic approach we are trying to do is to give consumers better capacity to choose and to try to encourage banks to be more explicit and clear and simple about the basic charges that accompany a mortgage loan or a credit card loan or an automobile loan or a checking account or a debit account.

Senator MORAN. Well, does the CFPB, is it granted authority in its tool box? Does it have the ability to determine what a reasonable fee is to charge for——

Secretary GEITHNER. I do not believe so. I do not believe so, and that was not the intent of the law, but I would be happy to ask my lawyers to tell you in more detail.

Senator MORAN. Okay. You know, in part that statement bothered me because it seems like a threat to banks: You did not do what we wanted you to do, so we will get you on the regulatory side.

And it also bothered me to suggest that we are again creating another opportunity for a regulatory agency to be, in my view, price-fixing between the relationship between the bank and its customer.

The final topic I wanted to raise is I have worked at opening markets to Cuba since the year of 2000—food, medicine, agriculture commodities. And the result, at least in part, of those efforts has been the passage of TSRA. The Treasury Department at OFAC has the ability to develop regulations, and generally we have had some success in those markets.

This is related to job creation in the sense that it goes back to the Administration's support, for example, for trade agreements with South Korea, Panama, Colombia. The more we export in many instances the greater opportunity we have for job creation.

I have always thought we had a silly policy in regard to Cuba, a unilateral sanction, particularly when it comes to food and medicine and agriculture commodities. If we are the only one implementing the sanction or enforcing the sanction, they are going to buy from somebody else.

So we have worked to get the law changed. We were successful. Regulations were put in a prior Administration that made those sales more difficult. There was retrenchment. Twenty percent less sales occurred to Cuba after that. Again, I would highlight this is sales for cash up front.

And most recently, we were successful in adding to the financial services and general government, fiscal year 2012, an amendment that allows for direct payments—again, payments, cash up front, but to get rid of the letters of credit that current Treasury regulations require.

The challenge now is, among other things, the politics is that of this issue is always challenging. But the Administration has a SAP in regard to this bill, including objections to this amendment as written.

And all I am looking for you this morning, Mr. Secretary—and we are working very closely in trying to modify the language that perhaps will ultimately be satisfactory with the Department of Treasury. And I am just wanting to highlight this issue with you and ask for your continued commitment to work with me to find the right technical terminology that may be something that the Administration would not include in their SAP in opposition.

Secretary GEITHNER. I am happy to give you that commitment to work with you on that.

Senator MORAN. Thank you very much.

Thank you, Madam Chair.

Chair LANDRIEU. Thank you.

Senator CARDIN. Thank you, Madam Chair.

And thank you, Secretary Geithner, for your work.

We are all frustrated that the $30 billion program did not generate more interest, and I think Senator Levin's point about the Republican delay is very much on point. There was a significant delay in considering the legislation when we should have moved in a faster manner.

But we are also concerned that we had anticipated a much larger interest. In reality, there was not the interest that we thought even though I agree with Senator Snowe. The need is out there, and it is a matter of trying to generate jobs. So we need to anticipate the realities of the banking system in this country.

It is interesting that we put out a lot less money for the State programs. I think it was $1.5 billion.

And I can speak for Maryland. I cannot speak for the rest of the country. But that program, those funds were put out quicker and leveraged very well and have produced concrete results in our State and I am sure in other States around the nation so that I was pleased that we included that and the Administration supported those funds being used for State programs.

And I think we can be proud of the manner in which that was used, and I really do applaud Governor O'Malley for the manner in which Maryland stepped up and handled those funds.

There was another suggestion that was made by me and some other members that did not receive the same enthusiasm from the Administration, and that was direct loans. Rather than going through the banks, let's try a direct loan program. We pointed out that for emergency circumstances there has been some capacity by the Federal government to make direct loans. There was a concern as to whether you could gear up for that and make the proper evaluations.

I mention that because the results on the $30 billion program were less than we had anticipated.

Should we be reconsidering the use of direct loans as a way in which we can generate the type of activity that we want, recognizing full well that the evaluations of loan guarantees in many respects give you the same risk factors as if we made direct loans, when you are guaranteeing 90 percent of loans?

Secretary GEITHNER. Senator, we have had a chance to talk about this in private, I think, and I think you know my views on this.

I am—I would be very concerned about the capacity of the Federal government to design a national program for direct lending both because of the time it would take and because of the risk that government officials are not the best people to make judgments about credit risk. But I understand the merits of that, of going around banks in this context, and I think there are special cases where it makes sense to do that. And I would be happy to talk to you in more detail about this.

But based on the experience I have looked at across lots of other countries I think that there is a risk that in those programs you get less good results and it is much harder to get the balance of care for the taxpayer aligned with the amount of risk you want the government to take in a crisis.

Senator CARDIN. Let me just—I expected that reply. That did not surprise me.

Let me just urge us to perhaps rethink this based upon the experience that we had on the bank participation program, based upon the fact that we currently evaluate loans for risk because the government is guaranteeing effectively the entire loan, or 90 percent of the loans, and third, the competition factor of having this source available might intrigue the banks to get more aggressively involved in the basic program itself.

So I would urge us to perhaps rethink this because it might help us to exactly what Senator Snowe and Senator Landrieu and this Committee want to be done, and that is to create activity and create jobs.

Secretary GEITHNER. I am always happy to take another look at this kind of things and happy to talk to you about how we could it.

Senator CARDIN. Thank you.

Thank you, Madam Chair.

Chair LANDRIEU. Thank you so much for your leadership on that issue, Senator Cardin.

The final questions will go to Senator Snowe, and then I will do a quick wrap-up.

Thank you for your patience, Mr. Secretary.

Senator SNOWE. Thank you, Chair Landrieu, again for holding this very important hearing.

And I would comment on the parameters of this hearing that our discussion is well within the realm given your testimony, Mr. Secretary. I know you ranged on a number of issues including the President's jobs proposal because it all affects small business and the bottom line. So taxes, regulation, all these issues enter into the fray in terms of how we are going to reconcile major impediments to job creation, which gets back to the whole issue of job creation because that is what it is really all about.

We have to focus like a laser, but we have got to get it right. We are 24 months into a recovery, and we have spent $800 billion in a stimulus. We have had $700 billion in TARP, quantitative easing of $600 billion. So we have had the maximum when you consider all the stimulus and monetary policy initiatives.

And here we are, if you think about it and the calculations that I have read, 40 months since the start of the recession. Generally, in a post-recession, you get an average 7.6 percent GDP growth. That has generally been the case in the four greatest recessions since World War II. And here we are, since the start of the recession in December 2007 at 0.1 percent in GDP growth.

So the trial and error era has to be over now because we are in this new norm that we cannot accept, of a 9 percent or higher unemployment rate. It really is disturbing and disconcerting. That is the message I want to impart here today.

If there is one message I can give to you is that current policies are not working and people are hurting, and we hear the same things over and over again. So I wish we could tackle tax reform and regulatory reform.

Now you mention the Small Business Lending Fund. I do not know how you measure it as a success, given the limited amount of money that has been utilized out of the $30 billion authorized, if you are talking about that.

But more than that, do we know how many jobs have been created with this program?

You also mention in your testimony that the President's Jobs Act would create 1.9 million new jobs. So where did that number come from?

Secretary GEITHNER. That is an average range used by independent economists. We have not given our own estimates about what the job effects would be of the Jobs Act, but what we try to do is to give Congress a range of independent estimates.

But could I respond to your central point because I think it is a very important point?

Senator SNOWE. Yes.

Secretary GEITHNER. I just want to offer two concluding things.

The economy is much weaker than any of us would like. It is slower today than it was in the early quarters of the recovery for the following reasons, and it is important to understand the reasons because we are trying to figure out what we can fix: It is slower because oil—we had a very damaging shock to oil prices. We had a disaster in Japan that slowed growth around the world, globally. We have a crisis in Europe that is having a huge negative impact on growth, globally. And we have an economy still healing from a long period where we took on too much debt, we built too many homes and there was too much risk-taking and leverage in the financial sector. Those factors give us a weaker economy growing more slowly than any of us would like.

The question is what can we do about it, and I think the question I would offer back is apart from tax reform, which I share your views—we should not be living with a tax system with this much uncertainty in it. It makes no sense for us as a country.

And apart of regulatory reform where we are going to disagree on where the balance is, but we completely agree there are areas where we can get regulatory burden lighter without undermining the core safety intentions.

Apart from that though, what can you join us in supporting because those things alone—tax reform and even where we can agree on regulatory reform—they are not going to get the economy growing fast enough, given the pressures we face globally and the other headwinds coming our way, digging our way out of this crisis.

And that is why we are focused on long-term infrastructure investments to help rebuild the economy, and that is why we are focused on a set of—I agree they are temporary, but temporary tax measures can be very powerful in a recession—things that will help make sure that going ahead, through the end of this year and for an addition 15 months or so, the average American has a lower tax burden than they do today and the average business has a lower tax burden than they do today. And without Congress acting on that front then the economy will be weaker.

So I agree with you about tax reform. I agree there are things we can do on the regulatory burden, broadly. I am not sure how much we can do. But that is not going to be enough to help the economy. We need to do more things now, and that requires Congress to legislate.

Senator SNOWE. But the President is calling for comprehensive tax reform, as you are obviously reiterating, in one breath and at the same time he is calling for tax increases. So you have got it in a package of temporary incentives for business for one year, and then you have got tax increases that will affect small businesses. There is no question about it.

The point is they are putting the cart before the horse. Why can we not do tax reform right now?

Secretary GEITHNER. Well, because——

Senator SNOWE. Our committee on finance has had the hearings.

Secretary GEITHNER. Right.

Senator SNOWE. We could do that.

I mean right now. We need the "now" part of it.

Secretary GEITHNER. Because if we do not the economy will be weaker. That is the simple way to do it. Because if we do not, if you do not do these things now——

Senator SNOWE. But we did that on the stimulus. We need a bridge to the private sector, and we need a permanency with it.

Secretary GEITHNER. Right.

Senator SNOWE. Consistency and predictability and certainty.

One year is not going to create the certainty. That is the problem. You can do some of those things, but you need the larger picture now.

And I am talking to everybody, Mr. Secretary, a lot of people that you talk to.

Secretary GEITHNER. Well, let me try it. Let me try it slightly different this way.

Senator SNOWE. Okay. I mean just—you know.

And I have talked across a range in the private sector. We do not need to be growing our government. We need to be growing the private sector.

And they are not going to take those risks. I mean the Chamber of Commerce has their recent outlook, and it is not getting better. In fact, they were asking their members if they are going to add more employees the next year. Seventeen percent said they would, down from 19 percent in July. So it is going in the wrong direction.

You could make a fundamental change; the President could, if we work together as a team on the key issues. If everybody is talking about it, then I think we cannot shift the conversation. We have got to talk about those things they care about. And they are the job generators.

Secretary GEITHNER. I think we have a chance.

Senator SNOWE. It matters to them. That is what counts now. You have got to work with them because they are the ones that we depend on.

And if it is taxes and regulation, let's do it now. I have been arguing regulatory reform since March in the other small business bill that was on the floor. And we kept saying we are going to get it on the floor, but that we did not have hearings.

We had hearings since then. It is now what? October. It will be November. We have not done anything.

Secretary GEITHNER. Senator, again, I agree with you on comprehensive tax reform, but again, I would just offer the following. Just think about the following thing: If you do not do anything now in the next three months, then taxes for everybody who has a job in this country go up substantially. They go up for every business.

So the reason why in a situation like this where growth is weaker, why you need to extend temporary tax measures, is because if you do not the economy will be weaker. They are not a substitute for long-term tax reform, but they are a necessary complement.

So I agree with you that there are some fundamental long-term things we have to get right. We should not take forever to do them. We are happy to move as quickly as possible, and maybe the Super Committee is going to help us in the context.

Senator SNOWE. Well, why can we not do it in tandem with other committees? Why does the President not work with Congress and get it done?

Secretary GEITHNER. Well, of course, we will do that.

Senator SNOWE. Now let's just have conversations and get this done. I just do not understand it, frankly.

Secretary GEITHNER. Well, again, we are happy to do that, but we have got to get the near-term stuff done too, not just the long-term stuff.

Chair LANDRIEU. Okay, Senator Pryor.

Senator PRYOR. Thank you, and Madam Chairman and Senator Snowe, thank you for holding this hearing. I really appreciate your focus on this.

And Secretary, thank you for being here. I just have a few questions. I am sorry I had to step out of the room. I had a meeting in my office, but thank you for hanging around and taking my questions here.

First, I have a letter from Liberty Bank Shares in Arkansas, and I just want to share this with the Committee and with you, Mr. Secretary.

It says: Liberty Bank of Arkansas has a strategic goal of providing for the needs of small and medium-size businesses in our geographical lending area. The Small Business Lending Fund allows us to have additional capital to better to serve the needs of small and medium-size businesses in our communities.

Liberty Bank continues in its commitment to serve the needs of small businesses. Thus far, in 2011, we are experiencing an increase in the volume of loans to small businesses. We are hopeful of continuing to see increases in future months.

And then he says: We compliment the U.S. Treasury on its handling of the application, approval and consummation process of SBLF. For our organization, the process was completed with minimal difficulties, which we view as quite an achievement given that SBLF program was new and was being initiated for the first time.

And that is from Wallace Fowler, the Chairman and CEO.

So some people are happy with some of what you are doing at least.

Let me ask you a few small business questions, if I may.

I have a bill with Senator Scott Brown, and I know he had to step out, and it is called the Small Business Savings Account Act. I do not know if you are familiar with it, but if you are not, I would love for you to look at it.

But basically, what it allows people to do is—who are dreaming about starting a small business—to set aside their own money, tax-free, almost like a 401K or something like that, where they could set it aside tax-free. The numbers are I think it costs about $80,000 or so to start a new business.

And to me, it seems that that is a good approach because people are using their own money. They probably will go to a local lender and say: Hey, I have already saved $25,000, $30,000. Can you help me out and let's do this?

So do you have any comments on that legislation?

Secretary GEITHNER. Well, again, I am happy to look at that, and you have another bill too that looks at a creative way to try to improve the incentives for small businesses. I am happy to work with you on both those two things.

Again, I think there is a very good case, given the fact that we need growth stronger now, to look at a mix of both temporary things and permanent things we can do in this context. And again, we are open to ideas and happy to work with you on those.

Senator PRYOR. Thank you.

I think the second one you are probably talking about is the American Opportunity Act, and that is a 25 percent tax credit for angel investors. That could really get us over the hump, and we know all the positive stories there. So I would love to continue to work with you on that.

And the other question I had is—and I just read this letter from Liberty Bank, or part of the letter from Liberty Bank Shares in Arkansas. It is a great financial institution, locally owned, locally operated. They are doing well. Even though it has been a very difficult time, they still continue to be strong.

But when I talk to banks in Arkansas, sometimes what they say is that there is a lack of demand for small business loans. And when I talk to small businesses, what they say is you know, the banks are not lending to them. And then, it seems like when I talk to both of them sometimes they say that the regulators have made it more difficult on borrowers and lenders.

So could you help the Committee through that and tell us how that, from your standpoint, how that is really working and also what we can do to get this part of our economy out of neutral?

Secretary GEITHNER. I think they are all right. Lending demand has been—you know, fell a lot in the recession, and it is still very slow to recover because economic growth is relatively slow and because many people borrowed too much. So by any measure, overall demand for loans has been—was very weak early in the recovery and has been slow to sort of pick up.

If you look at the broad measures of credit availability, they are dramatically improved since the crisis. The cost of credit is much, much lower, and lending terms have come back down to more normal in this context.

But still, some businesses have a hard time getting access to credit, and that is because they are overwhelmingly dependent on banks or on their credit card or borrowing against, as Senator Levin said earlier, against the value of their real estate asset. And with value that has hurt so much, it has been harder for them in that context.

And if you were unlucky in your bank and your bank was under a lot of pressure, the bank may have cut your credit off and you might find it hard to find a new bank in a recession where people are having a hard time judging credit risk.

And as I said earlier, there is obviously some risk that examiners are being pretty tough, and maybe for some banks in some parts of the country, some businesses being conservative, very conservative in a way that adds to those pressures.

I think the best thing we can do to mitigate that is to continue doing what we are doing, which is to make sure banks that are reasonably strong, in financial shape, have access to capital. That will make it more likely they can lend. And there is a whole range of things in that area that we can continue to do and happy to work with you on it.

Senator PRYOR. That would be great.

Madam Chair, one last thing.

Chair LANDRIEU. Go ahead.

Senator PRYOR. And this actually is from Homeland Security. Remember, I have been working with this FEMA issue?

Chair LANDRIEU. Yes.

Senator PRYOR. One of the cases that I have been working with has now been turned over to the IRS, and so we actually called someone at Treasury last week to have a meeting on this with you, and we have not heard back.

So my only request would be if you could talk to the right person and make sure that we get a meeting this week, if possible——

Secretary GEITHNER. Okay.

Senator PRYOR [continuing]. With the right person there, the appropriate person. We would love to do that this week.

Thank you.

Chair LANDRIEU. Thank you, Mr. Secretary. You have been very patient, but you are also a very popular witness, as you can tell from the turnout.

Secretary GEITHNER. I do not think popular is quite the word you were looking for.

Chair LANDRIEU. A well sought after witness, shall I say.

I really want to thank the members both on the Republican and Democratic sides for coming and participating this morning.

I would only say that in addition to the testimony that you submitted for this hearing: I would really like for you and your staff, as we consider what our next step might be on the SBLF, to tell us the five or six or seven, or three, or whatever the number is, of recommendations for improvements. If we were to go to SBLF II, what would they be, et cetera?

I have a few suggestions myself, and I have learned a lot today.

Secondly, I want to underscore the points made about banks reassessing the collateral against small business loans because, Mr. Secretary, if we do not come up with a way to address that—and I do not have all the answers. I have some I want to suggest—we may go through another round of devaluation and a very softening of lending. You know the extent of that, and many of those loans are coming due.

We are going to submit some ideas.

And finally, the positive thing I will say is given that we have discussed trade with Cuba today, tax reform relief, regulatory reform and the price of bread, we now have all the arguments we need to ask for more money and our Committee and the staff to cover all these issues.

God bless you all. Thank you so much.

Thank you, Mr. Secretary.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

United States Senate
Committee on Small Business and Entrepreneurship

Hearing: "The Small Business Jobs Act of 2010, One Year Later"
October 18, 2011

Post-Hearing Questions for the Record
Submitted to Secretary Geithner
From Senator Olympia J. Snowe
Ranking Member

Question 1:

The benchmark established for the Small Business Lending Fund was based on the average of the individual participant lender's small business lending for the four full quarters ending in June of 2010. From 2008 to 2010, lending institutions' small business lending declined by 9.2% to $652 billion – the second lowest level since 2005-2006.

According to an October 3rd Reuters article, the Thomson Reuters/PayNet Small Business Lending Index, which measures the overall volume of financing to U.S. small businesses, gained 19 percent in August from a year earlier, and 8.6 percent from July. It is at its highest since April 2008, after gaining by double digits every month for 13 months. In fact, a full 51% of the Lending Fund's recipients had already increased small business lending – *prior to receiving funds* – enough to qualify for an *initial* low interest rate of 2% or less.

In looking back on when the program was considering a 2009 benchmark, the bipartisan Congressional Oversight Panel (COP) for TARP warned of the possible effects of low benchmarks. They stated that a risk to the program is that it could reward banks that would have increased their lending even in the absence of government support; and that if a bank increases its lending – not as a result of receiving the Lending funds but simply to return to a more normal lending level commensurate with its long-term business model – then it will receive a reduced cost of funds, simply by acting in its normal course of business.

Isn't it true that because the benchmark is set so low, it is not as much of an incentive as it otherwise could be, for increasing small business lending? Please explain, in detail, the basis of your response.

As established by Congress in the Small Business Jobs Act of 2010, the baseline for measuring the change in small business lending is the average of the amount of loans that were outstanding for each of the four calendar quarters ended June 30, 2010.

Although the amount of small business lending has increased since the bottom of the crisis, it is still short of the level needed to support a strong economic recovery. While some community banks have increased their lending, many have not. As of September 30, 2011, over 50 percent of small banks had negative loan growth since the baseline period.

Treasury was able to allocate more than $4 billion in funding to more than 330 community banks and community development loan funds (CDLFs). This investment offers SBLF participants the resources and confidence to increase their lending. Banks and CDLFs participating in SBLF have indicated that the investment could help increase lending to small businesses by more than $9.3 billion in the two years following Treasury's investment. This is critical support—real dollars—which will help put Americans back to work.

Additionally, as reported in Treasury's SBLF Quarterly Use of Funds Report submitted to Congress on April 6, 2012, a substantial majority of program participants (84%) have increased their small business lending levels, and over 68 percent of these institutions have increased small business lending by 10 percent or more. We believe these increases in lending will have a meaningful impact on small businesses across the country.

<u>Question 2:</u>

Mr. Secretary, during our hearing on October 18th, you had an exchange with Senator Rand Paul in which you discussed tax reform.

You acknowledged that Republicans and the Administration agree on a general tax reform strategy that involves broadening the base and lowering rates. But you also said, "you're going to have to be willing to raise some revenues, because you can't balance the budget, you can't get the budget back under control, unless you're willing to, as part of tax reform, to see some modest increase in revenues."

I have two questions that arise from this exchange:

(1) Is it the position of this Administration that tax reform should not be revenue neutral?

The President is committed to reducing the deficit through a balanced approach—one that restrains spending across the budget, including spending through the tax code; asks those with high incomes to contribute to deficit reduction; and lays the foundation for future growth. In September 2011, the President called upon the Congress to undertake comprehensive tax reform to cut rates, cut inefficient tax breaks, cut the deficit and increase jobs, while ensuring that people making over $1 million do not pay lower taxes than the middle class. The specific proposals identified by the President in his September 2011 plan would raise revenues that would be used for deficit reduction. Similarly, in the FY 2013 Budget proposal, released in February 2012, the President reiterated his call for comprehensive tax reform that, as part of a balanced set of fiscal policies, would raise revenues that would be used to reduce the Federal budget deficit.

(2) Is it the goal of this Administration to put policies in place such that revenues would exceed the historic average of 18 percent of Gross Domestic Product, and if so, by how much?

The President offered a detailed set of specific tax loophole closers and measures to broaden the tax base that, together with the expiration of the high-income tax cuts, would raise more than \$1.5 trillion over the coming decade. Those proposals, which are intended to start a national conversation about fundamental tax reform measures, include: cutting tax preferences for high income households, eliminating special tax breaks for oil and gas companies, closing the carried interest loophole for investment fund managers, eliminating benefits for those who buy corporate jets, reforming the treatment of insurance companies and products, and reforming the U.S. international tax system and other changes.

Reducing the Federal budget deficit will require a balanced approach including both spending cuts and revenue increases. Given the level of required Federal expenditures for both mandatory and discretionary spending programs in the coming decades, reducing the Federal budget deficit to manageable levels will likely require revenues to exceed 18 percent of GDP.

Question 3:

The Tax Reform Act of 1986 (TRA '86) did not happen by itself. That accomplishment was the product of years of work. President Reagan used his State of the Union speeches in both 1984 and 1985, as well as other prime-time television addresses specifically focused on tax reform, to spur congressional action and build the momentum needed to see it through. He tasked his Treasury Department to deliver bold tax reform ideas, and he sent them back to the drawing board when initial ideas fell flat – as we saw with the release of "Treasury I" in 1984 and the more impactful "Treasury II" set of proposals in 1985. Congress was actively involved: Ways & Means heard from more than 450 witnesses and the Senate Finance Committee held 33 days of hearings before markups began in earnest in the fall of 1985. Meanwhile, President Obama mentioned tax reform in his January 2011 State of the Union speech but to date no tax reform proposals have been forthcoming. This lack of leadership is deeply disappointing.

a. **If the time required to enact the 1986 Tax Reform Act is any guide, then it would be at least 2013 before new fundamental tax reform could be enacted, and the American people and our national economy cannot wait that long. Please provide an update on the status of the Administration's tax reform proposals and a date by which the Administration expects to release its proposals.**

In September 2011, the President detailed five principles for comprehensive tax reform: (1) tax reform must cut the Federal budget deficit; (2) the reformed system should be simpler and have lower rates for corporations and individuals; (3) the reformed system should have a broader tax base that cuts inefficient and unfair tax breaks; (4) tax reform should promote growth and jobs in the United States; and (5) tax reform should observe the "Buffet Rule", that millionaires should not face tax burdens that are lower than those for middle-income families. These principles and the specific proposals outlined in the September plan would provide the foundation for an efficient and equitable tax system that keeps rates as low as possible, consistent with revenue needs and with asking those who have benefited the most from American opportunity to contribute their fair share of tax revenue. Those specific measures could contribute to comprehensive tax reform or could be enacted now. In the FY 2013 Budget *proposal, the President reiterated his call for comprehensive tax reform that raised revenue, as well as proposing a number of specific reforms that would move the Tax Code in the desired direction, if it proved too difficult to legislate tax reform in its entirety.*

b. We have heard that the Administration may propose corporate-only tax reform. Secretary Geithner, the fact that about 90 percent of American businesses are organized as pass-through entities subject to individual taxation means that corporate-only reform will miss the mark by an unacceptably wide margin. There can be no comprehensive tax reform unless individual rates are considered. What do you think would be the reaction of the pass-through community and 90 percent of American businesses if the Administration lowered rates only for businesses organized as C corporations? Will the Administration commit to comprehensive tax reform that includes both corporate and individual rates? Please describe in detail how you would do so, or why not.

As noted above, one of the principles that the President outlined is that income tax rates should be lowered for both individuals and corporations. He also noted that the base should be broadened and the Buffett rule should be observed. Comprehensive tax reform should draw upon the items specifically mentioned above that together with the elimination of additional inefficient tax breaks, could be used to reduce tax rates. On February 22, the President released his framework for business tax reform, which outlines the foundational steps necessary to reduce the corporate income tax rate to 28 percent, while sufficiently broadening the tax base so that this reform does not add to the Federal budget deficit.

Question 4:

We continue to hear that the Obama Administration is focusing its plans for tax reform exclusively on the corporate tax. I consider this to be a mistake because it ignores the fact that U.S. corporations represent only a fraction of all U.S. businesses. In fact, to say that most of America's businesses organize themselves in other than corporate form is an understatement: 90 percent of all U.S. businesses use a flow-through form, be it S corporation, partnership, or sole proprietorship. They employ 50 percent of the national work force and pay 43 percent of all business taxes collected by the federal government. And perhaps most critically, the flow-through entity is the form of choice for America's small businesses, where two-thirds of our jobs are created.

We also understand that the Administration may be considering proposals that would require flow-through entities to reorganize or be treated as C corporations, at least for tax purposes. On March 3, I introduced a Resolution (S. Res. 88) opposing a forced-march approach that would require flow-through businesses to reorganize or be treated as C corporations. It is absolutely essential that we protect America's job creators from higher taxes.

Forcing American flow-through businesses to convert to or be treated as C corporations would subject them to a double-layer of taxation and is simply another way to

increase their costs and raise their taxes. Will you explain the Administration's views on increasing taxes on businesses and the effects the Administration believes it will have on job creation?

The Administration is well aware of the importance of flow-through businesses and small businesses to the American economy. Indeed, the President has signed into law at least 17 tax cuts that benefit small businesses. Furthermore, the Administration is on record for its belief that tax reform should promote job creation (which is one of the President's five key principles for tax reform). The President on February 22, released his framework for revenue neutral, rate-lowering business tax reform in order to put the United States in a more competitive position internationally and to improve the allocation of capital in the economy by removing special tax incentives. The Administration looks forward to working with Congress to enact a tax reform that is consistent with all of the President's five key tax reform principles, and that does not unduly burden small and flow-through businesses.

Question 5:

According to the Joint Committee on Taxation, there are 65 provisions expiring at the end of this year and more than 100 expiring over the next few years. These include a host of small business provisions such as small business expensing, small business capital gains relief, built-in gain recognition period relief, as well as help for ailing communities such as the New Markets Tax Credit, and of course the ever-present research credit. I know the Administration supports making the research credit permanent, as I do. But we are nearing the end of the year and we are running out of time to ensure that these and other critical provisions do not lapse.

Does the Administration support a tax extenders package and will you commit to actively helping to pass a tax extenders package before the end of the year? Please describe in detail how you would do so, or why you are unable to support this measure.

In its FY 2012 Budget Submission, the Administration proposed to extend many of the expiring provisions. Unfortunately, Congress did not act throughout 2011 on this issue and several of the tax provisions have already expired. This situation presents taxpayers with uncertainty, since they cannot make economic and financial decisions based on knowing the level and character of tax incentives that may apply to these decisions (if any). The R&E credit is but one example of a tax incentive intended to provide support for long-term investments that has routinely been allowed to expire. The FY 2013 Budget proposal seeks to extend a number of these tax provisions through the end of 2013 to provide a measure of certainty for affected taxpayers. We look forward to working with Congress to enact these provisions.

Question 6:

The Obama Administration has repeatedly proposed a 28 percent limitation on itemized deductions for individuals making more than $200,000 a year and families making more than

$250,000 per year. This was included in the president's initial Jobs Act, which the Senate has now voted down, and the president included this same proposal in his deficit reduction plan, a $3.6 trillion package that includes a massive tax increase of well over $1 trillion through such provisions as this capping of itemized deductions.

As a Member of the Senate Philanthropy Caucus, I am deeply troubled by the impact on charitable giving that such an ill-conceived tax increase would have.

But the charitable deduction is not the only itemized deduction that would be affected: the mortgage interest deduction also would be severely reduced in value.

The Administration's OMB Director, Jacob Lew, said he expects this provision could raise $400 billion over 10 years, indicating how deep and broad the hit would be to Americans who give to philanthropy and who seek to own a home.

The Administration has floated this proposal before and failed to gain support for it – for instance, it was offered as a way to fund the Patient Protection and Affordable Care Act, and it was recently rejected by Majority Leader Reid in favor of other offset ideas to pay for the Jobs Act.

We often hear of a lack of bipartisanship but there are opponents to this proposal on both sides of the aisle.

a. **What impact would this proposal, if implemented, have on the housing market? To what extent would it worsen an already fragile housing situation?**

The proposed restriction of the value of certain deductions would have little if any impact on the housing market for several reasons.

Only a small fraction of taxpayers – married couples with incomes in excess of $250,000 and single taxpayers with incomes in excess of $200,000 (both at 2009 levels and indexed thereafter) – will be affected by the proposal. The majority of housing demand comes from those taxpayers who are non-itemizers and those taxpayers with annual incomes below these income thresholds, and these taxpayers are not affected at all by the proposal.

The taxpayers who are affected by the proposal will retain the majority of the value of the mortgage interest and property tax deductions. A taxpayer in the top tax bracket will have the tax value of these deductions reduced by less than one-third, from 39.6 cents on the dollar to 28 cents. A taxpayer in the 36 percent bracket will have the tax value reduced by less than a quarter, from 36 cents on the dollar to 28 cents.

There is economic evidence that the availability of the mortgage interest deduction does not substantially increase homeownership rates. High-income taxpayers in particular are very likely to be homeowners even if the tax value of the mortgage interest deduction is reduced. In addition, the limitation on the value of the mortgage interest deduction would have no direct effect on the after-tax cost of owning a house to the extent that the house is financed with equity rather than with a mortgage, or that the homeowner does not itemize deductions.

b. **Secretary Geithner, I know you appreciate that the country is on an unsustainable trajectory economically. But when considering ways to address the deficit, we should avoid taking actions like this one that would shock the already fragile economy. These would have devastating impacts on contributions to charity. What are the ramifications of reducing philanthropic organizations ability to help those in need?**

We agree that the non-profit sector plays an important role in maintaining our social safety net. However, we do not believe charitable giving will be greatly reduced by the proposal to limit the value of itemized deductions for high-income taxpayers for several reasons.

Most importantly, charitable giving is motivated by many reasons, not just potential tax benefits.

In addition, only a small fraction of donors will be impacted by the proposal. The vast majority of donors, including non-itemizers and taxpayers with annual incomes below $250,000 for joint filers, are not affected by the proposal.

For taxpayers who are affected by the proposal, the tax incentive to make charitable gifts will be reduced but not eliminated. A taxpayer in the top rate bracket will have the tax value of each dollar donated reduced by less than 12 cents, from 39.6 cents on the dollar to 28 cents. A taxpayer in the 36 percent bracket will have the tax value of the donation reduced by only eight cents, from 36 cents on the dollar to 28 cents.

c. **Mr. Secretary, please explain the Administration's reluctance to change this direction given that Congress has previously reject this proposal.**

There is widespread agreement that we need to reduce spending through the tax code. The Administration's fundamental principles for tax reform include cutting inefficient tax breaks and making the tax system fairer. There is no reason why high-income taxpayers should receive larger subsidies for housing, health insurance, retirement saving, charitable donations, and other spending, than the subsidies everyone else receives.

The provision affects only the highest-income taxpayers and will have little or no impact on the housing market, charitable sector, or other parts of the economy.

Question 7:

Mr. Secretary, as you stated in your written testimony, in FY 2010 small businesses received an estimated $97.95 billion in prime contracts through federal procurement. Federal contracting, in both prime and subcontracting dollars, is a crucial source of revenue for small business contractors across the country. The Small Business Act established government-wide statutory contracting goals for small businesses and for four socio-economic programs. Unfortunately, yet again, the Federal government failed to meet all but one of its goals. The goals and the corresponding percentage attainments are as follows:

Small Business Contracting Goal Category	**Goal**	**FY2010 Accomplishment**
Small Business	23%	22.66%
Women-owned firms	5%	4.04%
Service-disabled veterans	3%	2.50%
HUBZone firms	3%	2.77%
Small Disadvantaged Businesses	5%	7.95%

Failing to meet all but one of these goals is unacceptable. Your analysis that the Administration has taken "substantial strides" in meeting these goals disregards the fact that only one of these goals was achieved. What specific steps is this Administration taking to ensure that these goals are not only met, but exceeded, in all of the small business contracting programs?

What best practices can be taken from the Small Disadvantaged Business program which achieved 7.57 percent while all the others continue to fall short?

Government-wide small business contracting goals, which are administered by the Small Business Administration (SBA), were established by Congress through the Small Business Act. The SBA maintains the responsibility for establishing goals for the various federal agencies and monitoring the efforts and progress of each agency toward contributing to the government-wide small business goals. Fiscal Years 2010 and 2009 represented the largest two-year increase in over a decade in the Small Disadvantaged Business program. *Federal small business contracting has been a priority of the White House with focused efforts to increase accountability across federal agencies to improve small business contracting levels. The recent elevation of the SBA to a Cabinet-level agency underscores the priority status of small business within this Administration. On April 26, 2010, the President issued a memorandum to the heads of executive departments and agencies establishing an Interagency Taskforce on Federal Contracting Opportunities for Small Business. The Task Force was led by the SBA Administrator Karen Mills, Department of Commerce Secretary Gary Locke and the Office of Management and Budget (OMB), Office of Federal Procurement Policy Administrator, Dan Gordon. On September 15, 2010, the Interagency Task Force on Federal Contracting Opportunities for Small Business released its recommendations on how to create more federal contracting opportunities for small businesses.*

The Task Force's overarching recommendation was to create a greater sense of urgency and accountability for reaching small business federal contracting goals. The report specifically called for a meeting of Cabinet-level officials to review agencies' progress toward meeting their goals.

In January 2011, the White House began holding quarterly meetings with the Administrators and Deputy Secretaries of the seven agencies responsible for the majority of federal contracting (Departments of Defense, Energy, Homeland Security, Health and Human Services, Veterans Affairs, the General Services Administration, and NASA) to discuss progress and plans for meeting small *business prime contracting and subcontracting goals – both at the government-wide and agency level. Subsequently, in February 2011, the White House began hosting bi-weekly calls with all of the major contracting agencies and quarterly meetings with senior agency leadership beyond the original seven agencies to strengthen agency accountability to small business contracting, with an important focus on small disadvantaged businesses, women-owned businesses, Historically Underutilized Business Zones (HUBZone) businesses, and service disabled veteran-owned small businesses.*

Treasury has been actively engaged with the White House on this effort. Spearheaded by the Assistant Secretary for Management, this was the first major initiative implemented by Treasury's new Office of Minority and Women Inclusion (OMWI), in collaboration with the Office of the Procurement Executive. A Treasury-wide campaign to meet all of Treasury's FY11 small business goals led to a landmark achievement. For the first time ever, Treasury exceeded its overall small business contracting goal established by the Small Business Administration, as well as all four of the SBA-established socioeconomic small business contracting goals.

SBA provides each agency a letter grade score based on its annual achievement. I am pleased to note that in FY10, Treasury received a letter grade of A.

Treasury accomplished its small business goals by utilizing a multi-pronged strategy of targeted outreach, enhanced accountability, new policy, creation of new tools and resources, and increased intra-agency communication. These tools can be used by other agencies to achieve similar outcomes.

Question 8:

Under Section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988, Treasury is required to provide a foreign exchange rate report to Congress listing countries that manipulate their currency. The report was due on October 15th but Treasury opted to delay its release and as of today Congress has not received the report.

Secretary Geithner, how do you explain this delay?

On October 14, 2011, Treasury issued a public statement announcing a delay in the publication of the semi-annual Report to Congress on International Economic and Exchange Rate Policies until later in the year following several important international meetings: the G-20 Finance Ministers and Central Bank Governors Meeting October 14-15, 2011; the G-20 Leaders Summit November 3-4, 2011; and the Asia-Pacific Economic Cooperation (APEC) Finance Ministers meeting November 10, 2011 and the APEC Leaders Meeting November 12-13, 2011. Treasury subsequently sent the Report to Congress on December 27, 2011.

Question 9:

Mr. Secretary, an overarching concern that I hear regarding the federal government's role in our economy is not only its historic level of spending as a percentage of GDP – roughly 24.1

percent, but moreover our federal programs are disproportionately targeted to assist our large businesses rather than the true entrepreneurs of the United States, our small businesses.

For instance, the Department of Energy's Loan Guarantee Program has provided $35.9 billion in loans, the majority to household energy company names such as Areva, NRG, Nextera, and Exelon. Regrettably, the program has also provided notoriety to Solyndra as Congress continues to investigate the Administration's decision to provide this now bankrupt company with a taxpayer-backed loan guarantee of $535 million.

A memorandum dated October 25th, 2010, prepared for the President by Larry Summers and other key staff assessing the Loan Guarantee program stated that,
"OMB and Treasury support the establishment of clear policy principles for [DOE Loan Guarantee] project review, recognizing that this may pose a risk that some program funds may not be obligated" by the end of FY11.' In addition, the memo recommends reprogramming the loan funding for an extension of the 1603 grant program. Neither of which were ultimately proposed by the President or the Administration.

The memo references Treasury's concerns regarding the program - were you involved or did you have knowledge of this memo prepared for President Obama?

My staff provided me with a summary of the memo prior to the President's October 26th Economic Daily Briefing mentioned in the White House staff memorandum.

Notably, in an e-mail response to a political supporter who raised questions regarding the Administration's support for Solyndra, Larry Summers stated, "I relate well to your view that gov is a crappy vc [Venture Capitalist] and if u were closer to it you'd feel more strongly." **Do you agree with Mr. Summers' assessment that the federal government performs poorly in identifying firms that can grow with access to capital?**

Providing credit assistance to American firms, through loans and loan guarantees, has been a longstanding Federal policy tool and used for decades. Federal credit assistance should be used only when it is the best method to achieve a clearly specified Federal objective, such as correcting a defined capital market imperfection or encouraging specified activities. Such assistance must be used prudently, to the minimum extent necessary, and with appropriate safeguards in place to protect taxpayer interests.

The memo prepared for the President provided a comparison of a tax incentive and the loan guarantee program. The evaluation indicated that the tax incentive requires 90 percent less staff, is standardized for all applicants, and took roughly 1/6th of the time to review applications. **Do you believe it was a mistake that the President did not take the advice of his staff and reprogram the funding of the subjective DOE Loan Guarantee program into clear and consistent tax policies such as the production tax credit? Please explain the reasoning behind your response.**

I agree with and support the President's decision to continue support for renewable energy production through the loan guarantee program and the one-year extension of the Section 1603 program under the American Recovery and Reinvestment Act of 2009 for payments for specified energy properties in lieu of tax credits. This extension was signed into law as part of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 in December 2010. In addition, the President's FY 2013 Budget proposes to extend the production tax credit for wind energy through 2013, and to extend the section 1603 program for an additional year.

As someone who is strongly supportive of developing clean energy in the United States, I am deeply concerned about the Administration's management of these expensive federal programs.

It is essential that the Treasury Department be committed to providing its expertise to the President along with Congress as we consider future policies to support renewable and clean energy. **Please formally provide this Committee your recommendations on how to overhaul the DOE Loan Guarantee Program and simplify our energy policies, so they work to benefit all American businesses.**

As you know, the White House ordered an independent review, led by Herb Allison, of the DOE loan guarantee program. We provided Mr. Allison with input on the governance and management of the program. Mr. Allison recently issued his report, which provides the general public and Congress with findings and recommendations to consider in evaluating the administration of the program.

United States Senate
Committee on Small Business and Entrepreneurship

Hearing:
"The Small Business Jobs Act of 2010, One Year Later"
October 18, 2011

Post-Hearing Questions for the Record
Submitted to Secretary Geithner
From Senator Sheldon Whitehouse

Question 1:

Credit unions were eligible to participate in the SBLF but were limited by their business lending cap. As you know, credit union business lending is limited to 12.25% of an institution's total assets. This means that many credit unions could not take advantage of the incentives that were part of the SBLF, because they were already at their business lending limits and not able to increase their small business lending. **What actions did Treasury take to ensure the availability of SBLF funds to credit unions, and what was the rate of participation for credit unions in the SBLF?**

Per the Small Business Jobs Act of 2010, credit unions were not eligible to participate in the SBLF.

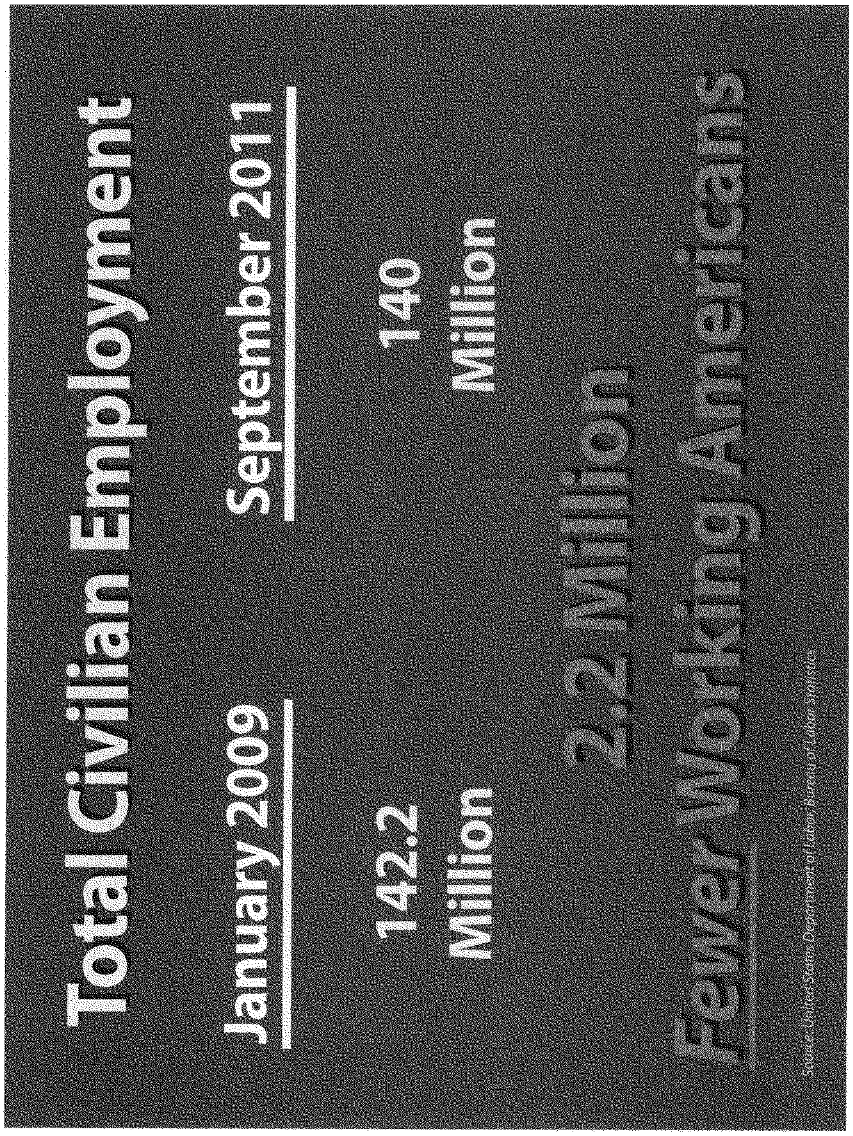
Question 2:

The SBLF was primarily designed for banks to issue preferred stock in return for SBLF investment. However, mutual banks are not structured as to allow the issuance of preferred stock, and so Section 4103(b)(1) of the Small Business Jobs Act granted Treasury the authority to accept debt instruments as well. Debt is classified as Tier 2 capital, unlike preferred stock, which is treated as Tier 1 capital. This effectively prevented many mutual banks from participating in the SBLF and limited its stated purpose of increasing the availability of credit to small businesses. **What efforts did Treasury take to maximize the availability of SBLF funds to mutual banks?**

Treasury worked hard to implement the program and reach out to potential applicants, including mutual institutions. Due to their organizational form, most mutual institutions cannot issue preferred stock but may issue debt. Treasury provided the opportunity for these institutions to apply for debt financing through SBLF.

The federal banking agencies are responsible for determining the capital treatment of securities purchased by Treasury under SBLF. The flexibility of the banking agencies to provide Tier 1 capital treatment for debt instruments is limited by Section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 171 generally provides that risk-based capital requirements established by the banking agencies cannot be less than the requirements that *generally applied to insured depository institutions as of the date of enactment. At that time, debt instruments issued by insured depository institutions generally received Tier 2 capital treatment. The Federal Reserve Board issued an interim final rule which provides for more favorable treatment of SBLF debt than other debt issued by mutuals that are small bank holding companies.*

In reaching out to potential applicants, including mutual institutions, Treasury staff increased awareness of the program through direct outreach with community banks, participating in more than 50 industry events, teleconferences, and webinars, and launching a dedicated website and call center. In total, Treasury initiated more than 4,600 outreach calls, including calls to over 60 percent of potentially qualified community banks.


Total Civilian Employment
January 2009
September 2011
142.2 Million
140 Million
2.2 Million
Fewer Working Americans
Source: United States Department of Labor Bureau of Labor Statistics

TESTIMONY OF DAVID BARIS

EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF BANK DIRECTORS

HEARING BEFORE

US SENATE COMMITTEE ON SMALL BUSINESS

WASHINGTON, D.C.

"THE SMALL BUSINESS JOBS ACT OF 2010, ONE YEAR LATER"

OCTOBER 18, 2011

Good morning Chairman Landrieu, Ranking Member Snowe and members of the Committee. Thank you for the opportunity to submit this statement for the hearing record.

The American Association of Bank Directors provides advocacy, informational and educational support for bank and savings institution directors. Many of the institutions that our members serve need more capital in order to lend more to small businesses in their communities but cannot successfully tap the currently dysfunctional private capital markets for reasons largely out of their control.

The SBLF was a well-conceived program to promote small business lending and create jobs, which is at the top of everyone's agenda at this critical point in our economy. Unfortunately, partly for reasons set forth below, it was not as successful as it could have been. If Congress extends the program, it is essential that the legislation address the issues raised in my statement.

We have received reports that a number of qualified banks were not approved for an investment under the SBLF program solely because they passed board resolutions requested by the primary bank regulator or entered into other administrative documents that required them to obtain the prior approval of the regulator for any dividend payment. These restrictions are being applied to hundreds if not thousands of banks. The imposition of the restrictions does not, by itself, question the viability of the institution or its capacity to repay Treasury's investment in the institution.

We believe that participation in the program, assuming it is extended, could be significantly increased by rescinding the belated and unanticipated policy change announced by Treasury in late May that disqualified applicants solely because the institution had agreed with their primary regulator not to pay a dividend without prior regulatory approval. The statute did not bar these applicants from participating. Rather, Treasury erected this barrier on its own accord and applied it to many otherwise qualified institutions.

Treasury applied this policy even when the primary federal banking regulator recommended an institution for SBLF funding, the institution had previously paid all of its TARP dividends with the primary regulator's approval, the institution's financial condition had stabilized or improved, and the institution was considered well-capitalized and profitable. We understand that banking regulators had identified for the Treasury Department companies it believed met the primary requirements of the programs despite having dividend restrictions in place.

In fact, a letter dated August 23, 2011 from Patrick M. Parkinson, Director of the Fed's Division of Banking Supervision and Regulation to Camden Fine, Executive Director of the ICBA, stated "We have identified for the Treasury department companies that we believe meet the primary requirements of the program despite having 'dividend restrictions' in place."

Treasury's belated announcement of the new policy set off a rush by applicants to request their bank regulators to remove or waive any dividend prior approval requirement for SBLF purposes. Treasury gave applicants until August 1, 2011 to certify that applicants had no such restriction in place or to seek a waiver. However, removal of regulatory dividend approval requirements was difficult if not impossible for applicants to obtain from their primary bank regulators since federal banking agencies typically reconsider these requirements only after scheduled bank examinations are completed.

Any legislation that will extend the SBLF program should explicitly direct Treasury not to disqualify applicants solely because they have agreed to obtain prior approval from their primary bank regulator before paying dividends. If the primary bank regulator, which has far superior knowledge of the applicant than does Treasury, has advised Treasury that the company or bank has met the primary requirements of the program, that advice should weigh heavily in favor of approval.

Applicants for SBLF funding that did not receive funding now need to reassess their lending plans and possibly reduce their loan portfolios, leaving small businesses, including those in America's inner cities, with significantly less credit. This result can be reversed by the extension of the SBLF program and the funding of investments in viable banks and companies.

Thank you for your consideration.

Michigan Bankers Association

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www.mibankers.com

517-485-3600
Fax 517-485-3672

October 18, 2011

The Honorable Carl Levin
Senate Committee on Small Business
269 Russell SOB
Washington, D.C. 20510
Via email

Dear Senator Levin:

The Michigan Bankers Association appreciates the committee's review of the federal funding of the State Small Business Credit Initiative stipend to state governments. The Michigan Economic Development Corporation in cooperation with Michigan Bankers has created an innovative deployment model for these funds to target especially those borrowers with growth and development potential that may not receive a loan under the current economic and regulatory conditions. The program while innovative has characteristics that assure government support capital is protected from excessive risk and preserved for future support for business product concept development and production growth for emerging market leaders.

1. Innovative: The program is collaboration between MEDC and MBA members. Lenders working in Michigan banks are certified in the knowledge of characteristics of the program and banks must commit individual lenders for training for awareness and execution for loan support participation.
2. Deployment: Michigan banks underwrite the loans and retain a majority of the risk in all cases. As the majority of risk is retained at the bank the underwriting process is completed properly, but not unnecessarily duplicated in the approval process at MEDC. In Michigan's fragile economy with the rehabilitation of the complex supply chain for intermodal transportation is still in process; timing is important in deployment of these loan supports.
3. Growth Borrowers: The MEDC program is limited to borrowers that are experiencing growth and may demonstrate that business growth, but due to the general economic conditions and the regulatory environment are not able meet the standards for loan qualification. The borrowers have certain aspects of collateral or cash flow support only for the duration necessary to achieve the independence of the loan or project.
4. Protected: This is a relatively speculation free loan support program. The borrowers are stage two companies and the lender's tightened regulatory qualification standards create a situation wherein the targeted recipients and underwriting combine to assure safety to the corpus of the funds.

The Michigan Bankers Association urges your continued financial support of the State Small Business Credit Initiative in your considerations of the tools needed for economy stimulus, redevelopment and redirection.

The Michigan Bankers Association (MBA), the voice of the banking industry since 1887, is comprised of Michigan financial institutions with more than 3,500 branches located throughout the state. The MBA promotes strong communities and economic activity in Michigan by advancing a positive business environment.

Sincerely,

John T. Llewellyn
Vice-President - Government Relations
Michigan Bankers Association

TESTIMONY OF

Paul Brown

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

On

"The Small Business Jobs Act of 2010, One Year Later"

Before the
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
U.S. SENATE

October 18, 2011, 10:00 a.m.
Russell Senate Office Building, Washington, D.C.

October 18, 2011

The Honorable Senator Mary L. Landrieu

U.S. Senate Committee on Small Business & Entrepreneurship

United States Senate

428A Russell Senate Office Building

Washington, D.C. 20510

Re: "The Small Business Jobs Act of 2010, One Year Later"

Madam Chairwoman and Members of the Committee:

I am happy to report that, one year after its creation, the Small Business Jobs Act of 2010 has already had a significant impact on scores of Michigan businesses and thousands of workers and Michigan families. The team at U.S. Treasury has been a great partner, providing Michigan with invaluable support during the application and implementation process. We would like to thank Senator Levin, Senator Stabenow, Senator Warner; and Congressmen Levin, Peters, Dingell and the entire Michigan Delegation for their support throughout the process of establishing the Small Business Jobs Act of 2010. In the three and a half months since Michigan received funding, the State Small Business Credit Initiative (SSBCI) has committed over $15 million to 79 loans, leveraging nearly $58 million in private funds. Each of these loans represents companies that would not have been able to receive the financing they need to survive and grow had it not been for the programs funded through SSBCI.

It should be noted that not a single one of these loans have experienced a default and the programs have been able to realize strong returns through interest and fee charges. Simply put, these programs work because they address the exceptional impediments currently facing lenders and businesses, while relying on private sector decision makers, due diligence and administration. Most of these impediments persist and represent a grave threat to our nation's economic recovery and small businesses. I am confident that the other states receiving SSBCI funding will experience the same positive results as Michigan once their programs are in place and they see full adoption by the lending community. I urge you to continue to support this program and states' practical solutions to the unprecedented challenges facing our small businesses and lenders.

I would also like to take this opportunity to recount what has, and is, happening in Michigan, necessitating the creation of The Small Business Jobs Act of 2010. Michigan's economic condition has been well documented. Over the course of the last decade, Michigan has experienced a recession affecting nearly every industry in the state, which proved to be an early indicator of the national downturn to come. In 2008, the automotive industry was forever changed when Chrysler and General Motors underwent bankruptcy proceedings, which created a domino effect throughout the entire manufacturing supply chain that devastated the State of Michigan; especially its small businesses. By October 2009, Michigan's unemployment rate peaked at 15.1%[1]. By 2010, nearly 600,000 workers were looking for work.[2]

[1] "Labor Market Information". Michigan Department of Labor, Energy and Economic Growth. October 2009.
[2] "Labor Market Information". Michigan Department of Labor, Energy and Economic Growth. Annual 2010.

The downturn had a severe impact on Michigan's capital markets, particularly the lending industry, which nearly halted their lending in the state during that period. Michigan businesses were clamoring for support to refuel bank lending to try and stave off their potential demise. The State scrambled to find a solution to unlock the flow of capital, particularly to small businesses, which had been essentially redlined by the lending industry.

The Michigan Economic Development Corporation (MEDC) led the effort, working closely with banks across the state to craft mechanisms that would allow banks to begin making loans again. The MEDC discovered two primary structural problems that are preventing historically healthy, profitable small businesses from accessing the credit they need to survive and grow.

The first was that the downturn has caused the value of property, plant, and equipment to drop drastically, just like in the housing market. Lenders use the value of this property to write successful loans and cover their capital in the case of a loan default. In some cases, a company's asset values have plummeted as much as 80%, which has essentially wiped out the collateral needed to support a loan.

The second issue is that companies saw their revenue dry up in 2008 and 2009; a glaring deficiency on a bank loan application. In addition to collateral coverage, borrowers need to exhibit sufficient historical available free cash flow to pay the loan down. Yet this multi-year revenue average may not be representative of the company's current revenue or free cash flow. With both of the key ingredients missing from the financial statements of most borrowers, banks were effectively prohibited from making loans to even profitable, healthy businesses.

What resulted from this collaboration between the MEDC and the Michigan banking industry was the creation of two innovative programs: the Michigan Collateral Support Program and the Michigan Loan Participation Program. These programs were designed using three guiding principles developed by our team at the Michigan Economic Development Corporation:

1. There must be a market inefficiency which is preventing an otherwise healthy business from accessing the debt market.
2. A small amount of targeted public dollars can be deployed to correct the market inefficiency.
3. Public dollars must be directed by private sector experts whose interests are perfectly aligned with the public interest.

Both programs have proven to be effective in solving their respective problems. In short, the collateral support program fills a borrower's short-term gap in collateral coverage by providing lenders with cash accounts equal to the deficiency. The loan participation program provides lenders with sufficient free cash flow coverage by purchasing a portion of the bank's note and offering a grace period on that portion. These programs have been in existence in Michigan for almost two years. To date, they have contributed over $25 million to 48 loans; leveraging another $187 million in private debt. The programs have not experienced a single default and have returned $3.9 million in two years. In fact, the State anticipates earning a return on this investment. To date, the State has earned $191 per job with the assistance of the program[3].

[3] Total fees and interest returned by total jobs created or saved through the program.

Unfortunately, Michigan does not have the resources to continue to fund these proven programs. At the same time, Congress was challenged with addressing these issues for the whole country, as these same structural problems persist in every state. Michigan led a coalition of states, which worked closely Senator Levin, Senator Stabenow, Senator Warner and the Michigan Congressional Delegation, to design a national solution. In 2010, Congress passed the State Small Business Credit Initiative, which elegantly addressed these challenges by funding successful state programs that help unlock credit markets.

Michigan received its first round of SSBCI funding in July 2011. Since that time, SSBCI has been used to capitalize 79 Michigan businesses through collateral support, loan participation or the Capital Access Program. Over $15 million of funding has been committed to businesses around the state, including Manistique Papers, Inc., the largest private employer in Schoolcraft County. Manistique Papers is an historic business in the Upper Peninsula of Michigan, opening in 1920 and producing 100% recycled paper since 1984. It has anchored the private employment base for the region and is an integral part of the community. The company, which had never missed a loan payment, was forced into bankruptcy in 2011 by a foreign, absentee bank, due to a technical default on their loan. With the assistance of SSBCI, Manistique Papers was able to secure financing through a local lender and keep their doors open. This new capital infusion allows the company to continue operations, fund employees and renew their sales cycle; ultimately saving the mill, its jobs and the community from oblivion.

Michigan will continue to utilize its funding from SSBCI to leverage private capital to businesses that make a positive impact on the future of our economy. We would like to thank Senator

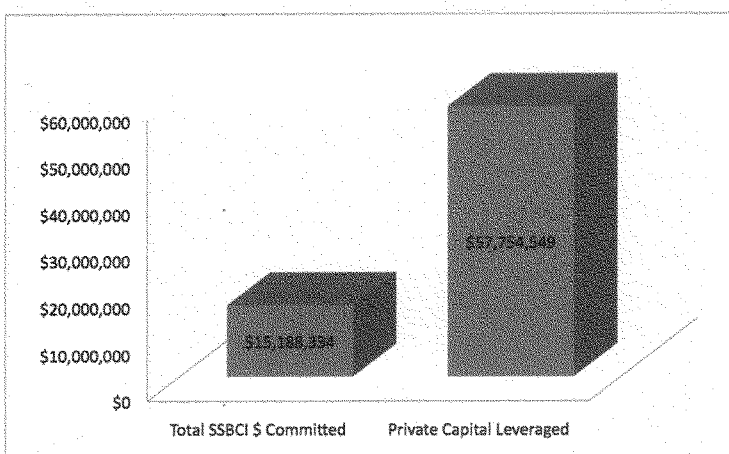
Levin, Senator Stabenow, Senator Warner; and Congressmen Levin, Peters, Dingell, the Michigan Congressional Delegation, the U.S. Department of Treasury and lenders throughout Michigan for their support and efforts to increasing lending to our small businesses and grow our economy.

Michigan's Current SSBCI Commitment

Date of Michigan's SSBCI Disbursement: July 2011

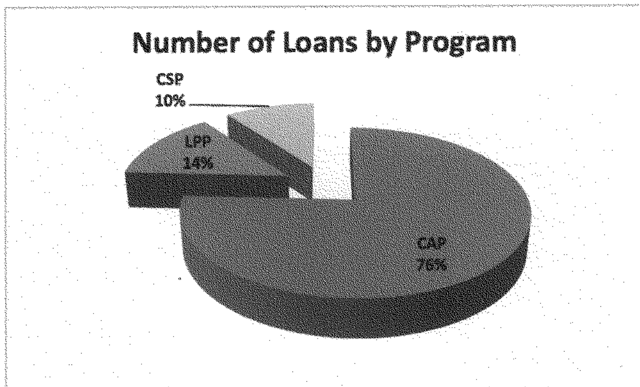
Total SSBCI Allocation to Michigan: $79,100,000

SSBCI Allocation Committed-to-Date: $15,188,334[4]



To date, Michigan has committed over $15.1 million of its SSBCI allocation to projects throughout the state. These funds have leveraged nearly $58 million in private capital to these businesses.

[4] Figures accurate through October 2011.

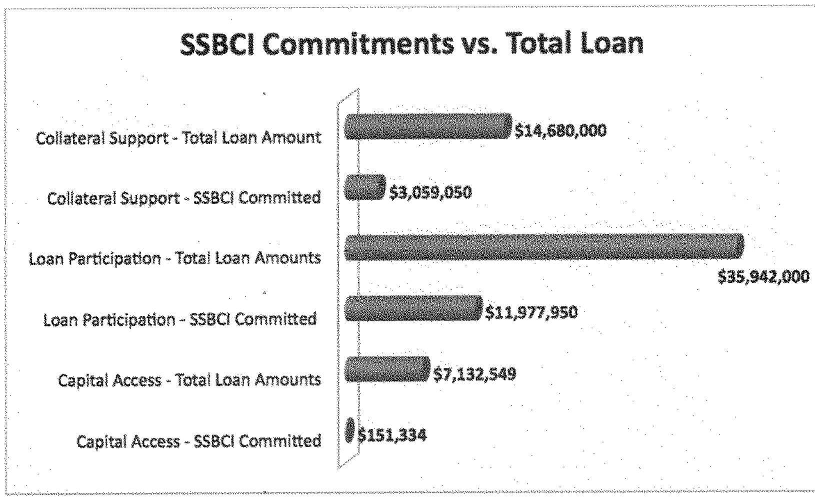


Number of Loans by SSBCI Program		
Capital Access Program	Loan Participation Program	Collateral Support Program
60	**11**	**8**

To-date, Michigan has committed SSBCI funding to 79 projects.

Leverage Ratio by SSBCI Program (Private Funding / SSBCI Funding)			
Total SSBCI	Capital Access Program	Collateral Support Program	Loan Participation Program
3.8:1	**47.1:1**	**4.8:1**	**3.0:1**

The Capital Access Program (CAP) has leveraged private sector dollars at a rate of 47:1.


SSBCI Commitments vs. Total Loan
Collateral Support - Total Loan Amount
$14,680,000
Collateral Support - SSBCI Committed
$3,059,050
Loan Participation - Total Loan Amounts
$35,942,000
Loan Participation - SSBCI Committed
$11,977,950
Capital Access - Total Loan Amounts
$7,132,549
Capital Access - SSBCI Committed
$151,334

Nicolet
NATIONAL BANK

October 14, 2011

The Honorable Mary L. Landrieu
Chair, Committee on Small Business & Entrepreneurship
United States Senate
428A Russell Senate Bldg.
Washington, DC 20510

RE: Nicolet National Bank (SBLF0240)

Dear Ms. Landrieu:

At the request of a representative of the Senate Small Business Committee for the use of Tim Geithner, we were asked to comment briefly on our participation and support of the Small Business Lending Fund.

On September 1, 2011, Nicolet Bankshares, Inc. began participation in the Small Business Lending Fund ("SBLF"). Nicolet National Bank participates in SBLF because it aligns with our community bank model, in support of reaching out to individuals and businesses, lending, and expanding our footprint.

As we understand it, the SBLF is a program of the U.S Treasury that was made available only to community banks. Nicolet is a vocal proponent of the community banking model, and has in many cases advised on or invested in the opening of other community banks, as well as supported the cooperation and competition among the community bank sector.

As we further understand it, the SBLF was designed to boost lending to small businesses by providing participating banks with capital and liquidity. In particular, the SBLF program targets commercial, industrial, owner-occupied real-estate and agricultural-based lending to qualifying small businesses, which include businesses with less than $50 million in revenue, and promotes outreach to women-owned, veteran-owned and minority-owned businesses. Loans defined under the program to qualify as small business loans are directly in Nicolet's swing zone. Perhaps our only early criticism of the program involves the current treatment of loan participations among community banks. Loan participations are often necessary or advised for either legal lending limits or risk-assessed purposes; thus, for a community bank to meet the credit need of its small business customer, it cooperatively works with another community bank who will utilize its capital and liquidity as well. The program's treatment to only count the loan for the lead community bank harms this cooperative nature and may shift the burden onto the small business

111 North Washington St ▪ PO Box 23900 ▪ Green Bay WI 54305-3900 ▪ P 920-430-1400 ▪ F 920 430 7581

to split their lending business or take their need to a large bank. We would respectfully request re-evaluation and the inconsistent reporting of this.

In conclusion, Nicolet was founded 11 years ago on a strategy of lending money and extending credit especially to small and medium-sized businesses who understand the value of relationships. During the tough economic times that began most noticeably in late 2008, many local banks spent time and resources shrinking their loan assets. Nicolet was one of few banks in our markets to continue lending throughout the economic crisis; and thus, we decided to be involved in the SBLF program. We are transparent about our intentions and have a track record for doing what we say we will do. We have served the small business needs of our community consistently since our inception. SBLF gives us the capital resources and appropriate incentives to further expand our work in his area.

Sincerely,

Robert B. Atwell
CEO